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No. 18

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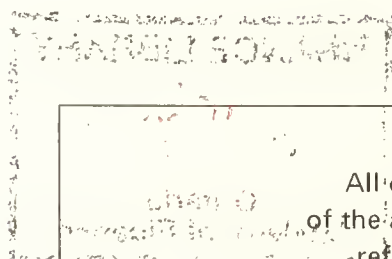
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## Editorial

Beginning with this issue, *Aspects* is initiating several new features which we trust will be of interest to our readers. First, in an attempt to maintain and extend the lines of communication between Toronto and the rest of the province, we have a new column, *Data Base*. This will report current and forthcoming events in the Assessment Division.

Secondly, *Aspects* is embarking on a series of articles about specific regional assessment offices. We intend to focus each article on some unique facet of that region's assessment system. This issue contains the first article, which is an examination of the transition to geographics in Niagara. We are grateful to Gerry Meredith, Niagara Assessment Commissioner, and to his entire staff for their cooperation and enthusiasm during this initial experimental article.

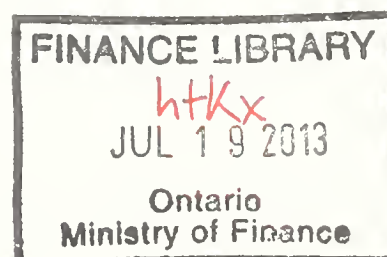
In addition to these new features, *Aspects* #18 contains articles on multiple regression analysis for multi-residential properties, the problem of business assessment rates for franchises, and the long-promised explanation of amendments to The Land Speculation Tax. We are also publishing a dissenting view of the Office Specialty case written by a private appraiser. Our interview is with The Honourable Arthur K. Meen, Minister of Revenue.

In *Aspects* #19 we will be introducing another new regular feature section on the real estate market. In the meantime, we welcome all submissions. □

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- **Cover/Design/Photo**      W. S. Wu  
The "dawning of the era of equality" theme  
portrayed was made possible by  
Ms. R. Gregory who graciously shared  
her private collection with us.





△ Commissioner Meredith musters his football team for a practice session. Starting center Jean Jones is seated on table. (Information courtesy of Dennis Laughlin).

## geographics: alive and well in niagara

This is the first in a series of articles about various regional offices. In *Aspects* #19, an assessment office in Northern Ontario will be featured. [Ed.]

The geographical assessor is alive and well in St. Catharines! Since the advent of the age of geographical organization in March, 1974, subtle but important changes have occurred in the Niagara regional office. These changes, which encompass both concrete work procedures and the general work environment, were discussed by Niagara assessors in a recent series of interviews with *Aspects*. Although various opinions were expressed, the total picture that emerged was one of general satisfaction with the changes that have taken place.

### A diverse region

The Niagara region stretches south of Hamilton to the north shore of Lake Erie, and is bordered on the east by Lake Ontario. It is perhaps best known as Ontario's wine-producing region, but a considerable number of industrial plants are also located in the area.

Niagara presents an interesting mix of property types, from the tourist attractions of Niagara Falls to the opulent, American-owned "cottage" compounds on the shore of Lake Erie. Of a total of approximately 125,000 properties, over two-thirds are residential. There are 8,500 farms, 6,400 commercial, 750 industrial, 650 multi-residential, 5,500 recreational and 5,500 special and exempt properties.

## The geographic transition

Until eighteen months ago, the Niagara assessment office was organized on the basis of property types, with four valuation managers. On March 15, 1974, the switch to geographics began and was accomplished over a period of approximately three weeks. Most assessment data, including supplementaries and Valuation File material, was sorted out according to the geographic regions that were being created.

Each of the four valuation managers was assigned an area which reflected a concentration of his previous property type. A "draft" was held for assignment of assessors to regions, and each manager ended up with some assessors who specialized in each property type. One P.A. 4 was also assigned to each geographic manager. Once the mechanics of transition were over, assessors were taken out for on-the-job training in the valuation of new types of properties.

According to assessment commissioner Gerry Meredith, the changeover to geographics was accomplished smoothly and with a minimum of confusion. He pointed out that a great deal of preliminary planning had been done in the office prior to the switch so that the entire staff would be thoroughly organized. Mr. Meredith said the only problem encountered was a slowdown in daily work schedules during the initial transition period.

## Themes and variations

Each of the four managers has developed his own system of internal organization within his given geographic area. Three have opted for a total geographic approach, while the fourth prefers to retain a system of division by property types within his area.

Dennis Laughlin was formerly the residential manager and now handles the city of St. Catharines. In addition, he is the Valuation File coordinator for western Ontario. He said, "Geographics has given me the framework for the tight organization I prefer." Mr. Laughlin divided his seventeen assessors into six groups which correspond to the wards of St. Catharines. Most work is done on this ward basis, and Mr. Laughlin utilizes his P.A. 4 to maintain close coordination and communication among the crews.

Former farm manager Floyd Krick also organized his area on a geographic basis. Mr. Krick, who is now in charge of the six most rural municipalities in Niagara, believes that "a geographic breakdown makes much better sense for rural areas." However, although he has a crew of assessors for each municipality, the geographic breakdown stops at this point. To avoid the creation of excessively rigid boundaries, Mr. Krick has not divided the municipalities into separate units for individual assessors. He prefers to have teams of at least two assessors for every project or area, which gives him more flexibility in the assignment of tasks.

Industrial manager Doug Elliott took over the Welland-Port Colborne area when geographics was introduced. However, he is also responsible for all special and exempt properties, and he is the Valuation File manager for the Niagara region. Because both of these projects are region-wide by nature, Mr. Elliott has structured his group on a modified geographical basis, with a relatively loose organization. He assigns tasks geographically to his crews whenever possible, but stated that certain property types in his area must be done on an area-wide basis.

Unlike the other three managers, David Rosier believes that "geographics stops with the manager." Accordingly, he continues to regard his assessors as specialists in certain types of property. Certain day-to-day functions — such as supplementaries — are handled geographically in his group, but in general Mr. Rosier assigns work by property type.

Mr. Rosier was the commercial manager before geographics; he is now manager of the Niagara Falls area.

## The managers comment

These four variations on the geographic theme are as much a reflection of each manager's personal style as of his attitude toward geographics. Although their opinions on the new system vary, they do all agree that geographics in general gives them the leeway to organize their groups in the ways that suit them and their areas.

## Continuity and coordination

All the managers also agree that geographics has been beneficial in certain ways. Dennis Laughlin commented, "Geographic organization has made the mechanics of day-to-day work much simpler." Procedures such as updating the Valuation File and processing supplementaries are now handled geographically and, as a result, are much easier to coordinate. And because the procedures are more visible, according to Floyd Krick, "more continuity in assessment" is possible.



△ Bernie Lafleur and Robert St. Pierre try valiantly to locate that property they somehow lost.

The area in which the greatest improvement has taken place, however, is that of communication with municipalities and the public. Prior to geographics, people with inquiries or complaints were often shuffled back and forth before the assessor with the proper information was located. Now, with assessors responsible for specific areas, municipal officials find themselves dealing consistently with the

erated by the reorganization will make it easier to pinpoint and solve valuation problems.

The others are not so sure of this. Doug Elliott believes that with most assessors handling all property types, it will be more difficult to delve deeply into technical valuation problems. Dennis Laughlin takes a middle of the road position. "Geographics itself won't make assessment quality better," he said, "but it does give the manager an opportunity to create an internal system of quality control within his group." Mr. Laughlin has implemented such a system for the city of St. Catharines.

### Geographics — Just a catchword?

David Rosier is the least convinced of the managers about the beneficial effects of geographics. He says that although the effect of geographics on the quality of assessments won't be known until the roll is returned, he suspects that it may be detrimental to that quality. Speaking particularly of commercial and other complex properties, Mr. Rosier believes that at least some degree of specialization by property types is necessary to deal effectively with valuation problems. In his view, geographics has never really been defined, and is more a "catchword" than anything else. As an organizational system, it is more useful for improving morale and carrying out daily routines than for dealing with the actual valuation of property.

Finally, on the question of the psychological impact of geographics on assessors, all the managers agree that the reorganization has been a good one. They commented that geographics has generated more personal interest in the work among assessors, as well as a greater sense of professionalism. Gerry Meredith pointed out that geographics gives each assessor more distinct and visible responsibilities, both individually and in group projects.

In general, then, the managers in Niagara are fairly satisfied with the switch to geographics. Although certain problems arise from this system of organization, there are also considerable benefits, for both managers and assessors.



△ The managers meet for friendly negotiations regarding who gets what territory. (left to right) David Rosier, Dennis Laughlin, Floyd Krick, Doug Elliott.



△ Managers Dennis Laughlin, David Rosier and Doug Elliott show Commissioner Gerry Meredith (second from left) how to locate the Niagara region on the map.

same assessors. The end result is a much faster and more efficient system of handling problems.

### "A better assessment product"?

On the question of the probable effect of geographics on the quality of valuation work, opinion among the managers is divided. "In the end, we will have a better assessment product because of geographics," Floyd Krick stated. He believes that the greater efficiency and communication gen-

### The assessors comment

How does the working assessor in Niagara view the reorganization? *Aspects* interviewed four assessors — one from each of the geographic areas — and found that their opinions correspond very closely to those expressed by the managers.

Gary Rouse, P.A. 4 in the St. Catharines area, coordinates the activities of the entire group and serves as a liaison between the assessors and manager Dennis Laughlin. He is

happy with geographics because it allows assessors to re-establish the lines of communication with municipal officials and the public that were characteristic of municipal assessment days. Mr. Rouse also cites greater motivation, awareness of and interest in market trends, and teamwork as positive results of geographics.

### "The red tape is minimized"

P.A. 3 Mike McGillivray, who works for Doug Elliott, also prefers the new system. He says that work procedures have been identified and simplified. "Our dealings with municipalities and the public are 100% better now because geographics has minimized the red tape and, consequently, the buck-passing tendency," he said. Mr. McGillivray also feels that more professionalism will ultimately result from the broad approach to valuation created by a geographic system. The only problem he foresees is one of managers being "stretched too thin" because their rather specialized areas of expertise may be inadequate for dealing with expanded responsibilities.

Steve Kormos, a P.A. 3 in Floyd Krick's group, finds that geographics has made assessment work less confusing and disjointed. He likes being able to work on a project from start to finish, "Geographics," he states, "gives the assessor a better idea of the total assessment picture for an area". Mr. Kormos believes that the new organization is particularly suitable for predominantly residential and farm areas, because so much of the work must be done on a day-to-day basis. Where public dealings are concerned, he has found that "many people are looking for the same face every year at assessment time, which makes our relations with the public much more natural."

### Diversity vs. specialization

Like his manager David Rosier, P.A. 3 John Harriman says that geographics is good psychologically and adminis-

tratively, but he is not convinced that it will produce better technical assessors. "It's just not possible to totally 'round out' an assessor," he commented. "The danger of geographics is that it could create assessors who are the proverbial 'jacks-of-all-trades, masters of none.'" He believes that professionalism comes from knowing one property type well. He also points out that geographics is more suitable to residential and farm properties. For complex properties, the assessor must look for the market across an entire region.

Mr. Harriman also suspects that quite a few assessors would really prefer to stick with one type of property valuation. However, with good coordination and a minimum of bureaucracy, the assessor will be able to work freely and develop his potential.

### Conclusion

On balance, the people who make up the Niagara office seem well satisfied with the geographic reorganization. That geographics has given the collective morale a boost is undeniable. It has also produced a more cohesive internal administrative system and better communications with the outside world. Most importantly, Mr. Meredith and his managers have created an organization that is flexible enough to accommodate both individual preferences and the requirements of the reassessment program.

The key to success, of course, is cooperation. Each manager now has the dual responsibility of a geographic area to manage and a property type to coordinate. Region-wide projects, such as rental and income analysis, are run under the direction of one manager with assessors from all areas participating.

Problems and doubts certainly remain, but most assessors believe they will be resolved as time goes on. In the meantime, the assessors of Niagara are clearly facing the future with renewed interest and greater confidence in their work. □



△ "What? 100,000 more Valuation Data Sheets to update??" asks Cliff Sinclair, pleadingly. A typical Niagara office scene.

# The franchise connection:

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## A question of business assessment

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This article is an expansion of our regular Case Summary feature. We felt that the question of franchises is sufficiently complex and important to warrant a full-scale article. [Ed.]

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K. R. MORGAN  
Assessment Standards Branch

McDonald's, Colonel Sanders, Shell, Holiday Inn — the list of franchises and the variety of products and services they sell is seemingly inexhaustible. Wherever we may travel in North America and, indeed, around the world, we are likely to come across a familiar logo that is also found in our home towns. The franchise is a comparatively new form of business arrangement insofar as it is now common and extensive. Originally, franchises were mainly limited to outlets for the sale of automobiles and oil products, but now the variety of goods sold through franchised dealers ranges from auto parts to pizzas to water conditioners.

Franchises have presented some difficulties for assessors, particularly with respect to business assessment. The problems encountered are multi-faceted because they emanate from a concept that has many dimensions. In order to assign the proper business percentage to a business, the assessor must not only look at the type of business but also, in cases where there are more than five stores or outlets, he must determine whether the business is part of a chain store operation or a franchise. Under Section 7 of The Assessment Act, a chain store is assessed under 7(1) (e) at 50%, whereas a franchise, unless it falls under a business specifically named elsewhere in the section, is assessed under 7(1) (j) at 30%. The difference between a chain operation and a franchise is to be found in their corporate structures, which will be examined in more detail later in this article.

In order to deal with the franchise as it relates to business assessment, the issue will be divided into three parts for discussion purposes. They are:

1. Definition and Problems;
2. Current Practices with Regard to the Various Types of Franchise; and
3. Possible Solutions.

The questions that will inevitably arise from the discussion are whether or not the status quo is to be maintained, and if not, what alternatives there are. Any change will certainly necessitate a legislative amendment to Section 7 of the Act and would reflect an alteration of Government policy towards franchises.

### Definition and problems

At present, there is no definition of the term "franchise" in The Assessment Act. Nevertheless, certain features which characterize franchises as defined below are recognized by assessors in determining whether a business is a franchise or part of a chain store system.

For the purposes of this article a franchise may be defined as:

the grant of a right to operate a business, which business involves the use of the grantor's trade mark or trade name and some substantial control of the grantee's operation of the business by the grantor.

(*Report of the Minister's Committee on Franchising — Department of Financial and Commercial Affairs, Ontario, July 1971*)

The problem area is "substantial control", and there are differing opinions on this matter.

Some assessors feel that the franchise system is a neat way of getting around Section 7(1) (e). They believe that the Act should be amended to include franchises in the above section, for one important reason. The franchisee, although subject to considerable control by the franchisor, has the advantages of regional and/or national advertising and discounts available through the franchisor's volume

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*... A franchise is the grant of a right to operate business involving the use of the grantor's trademark or trade name and some substantial control of the grantee's operation by the grantor... but  
Is the franchise an independent business?*

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purchase of goods. The franchisee may be a tenant of the franchisor; nevertheless, the outlet has the advantages of a chain store system. The chain store outlet, on the other hand, is completely subject to controls imposed by the chain's head office. The management and staff of the outlet are employees of the chain. The site may be owned or leased by the chain, which is deemed to be the tenant. A good example of this type is Loblaw's supermarkets. There is little question that these types of stores, if there are more than five in Ontario, must fall under the provisions of 7(1) (e).

Current policy in the Assessment Division holds that the franchisee operates as a tenant and cannot be assessed under 7(1) (e) unless he himself has a chain of more than five stores. An example of this is the Scott's Chicken Villa chain, which is a franchisee of Colonel Sanders, but operates a chain of more than five stores or outlets in Ontario.

Under the terms of Section 7, it is the "person occupying or using land for the purpose of, or in connection with any business" who is assessed, not the person who supplies certain goods and services. The franchisee is not deemed to be an employee of the franchisor. He is not paid a wage or salary, but rather must rely on profits for his livelihood.

This viewpoint seems to be an extension of the position held in the past with regard to automobile franchises and service stations and is supported by case law, some of which is discussed later in this paper.

Divisional policy has also emphasized the importance of reading each agreement between alleged franchisors and franchisees in order to determine whether the operation falls under this category or some other class. If the problem of control arises (i.e. how much control is necessary to effectively eliminate the user's autonomy), then a legal opinion should be sought.

Recently, the Becker Milk Company Ltd. was ruled to be an employer rather than a franchisor because of the strict control the company exercised over its store managers. Becker's could hire and fire at will and force its managers to recompensate any stock losses. The company also paid certain benefits on behalf of the managers. As a result, the company is now deemed to be a chain of more than five outlets, and therefore subject to 7(1) (e).

### Current practice with regard to the various types of franchises

Franchises are variations on a theme. No two franchises are exactly alike, and therefore each franchise must be examined individually. Nevertheless, all franchises have certain similar characteristics with respect to their corporate arrangements. Some of these characteristics have already been enumerated: control of franchisee by franchisor, use of logo by franchisee, and necessity for the franchisee to earn his profits from the individual outlet. The method of

enfranchisement may be in terms of a lease and/or partnership. To illustrate the various types of franchise, we will discuss the more common businesses — service stations, fast food outlets and drug stores.

### Leases

#### (1) Service stations

Service stations are one of the oldest forms of franchise. The usual arrangement is that the operator leases the site from the oil company. The oil company supplies much of the dealer's stock and advertises on behalf of the franchised dealer. The dealer is permitted to use the company logo. Since the service station lessee is not classified as an employee of the oil company, he is therefore liable for the business assessment. However, where the person operating the station or gas bar is an employee [c.f. The Employment Standards Act, 1974, S.O. 1974, ch. 112, Section 1(c)], then the business assessment is charged to the oil company under 7(1) (e), assuming that there are more than five outlets.

#### (2) Fast food outlets

This concept of leasing is being adopted by the fast food industry in some instances. One obvious benefit is that the person operating the franchise will be assessed for the business tax, not the franchisor as owner of the property. The franchisor still exercises rigid control, but the franchisee is considered an occupant rather than an employee. An example of this trend can be seen in McDonald's Restaurants of Canada Limited, which is the owner of the McDonald's hamburger chain. McDonald's has recently entered into a landlord/tenant relationship with one of its franchisees. The franchisee will still be subject to strict control by McDonald's, but as a tenant he will be responsible for any business taxes — a situation very similar to that of service station operators. Unless the franchisee himself has more than five stores or outlets in Ontario, he is subject to the 30% business assessment rate under 7(1) (j).

#### (3) Drug stores

Another minor variation of the franchise is the incorporation of each individual store or outlet in the name of the franchisee. The Shopper's Drug Mart Stores in Ontario are, in fact, franchises operated by licensees of the franchisor, Koffler Stores Ltd. Again the question centres around control. In a recent case, *Regional Assessment Commissioner, Region #28 and Koffler Stores Ltd. and Larry Sweig Drugs Ltd.* (O.M.B., July 1973), Larry Sweig Drugs Ltd. was held to be a franchisee and therefore liable to business assessment, as he was deemed to retain sufficient independence to operate as a licensee. The store operator could hire and fire staff and look after the banking. He was not just an agent of Koffler Stores Ltd.

## Partnerships

A new twist to the franchise business has been added recently — partnerships. This development is highlighted in two separate cases, one involving a fast food franchise and the other a retail store franchise.

### (1) Mother's Pizza Parlour Limited (Hamilton and Waterloo)

Although more than five stores in Ontario are trading under the name of Mother's Pizza Parlour, no single type of arrangement — whether sole proprietorship, partnership business and another individual, or separate corporation — is utilized in the operation of more than five Mother's Pizza Parlours.

In several locations the franchisor, Mother's Pizza Parlour Ltd., or Mother's Pizza Parlour (London) Ltd., has entered into an agreement whereby it holds the majority interest in the business and the franchisee has the minority interest. The franchisor retains control of the enterprise insofar as it supplies certain goods and services, and the franchisee must follow procedures delineated in the agreement. Nevertheless, the franchisee is not an employee of the franchisor, as both are entitled to part of the profits and both are liable for the losses to the extent of their interests.

The view that they are partnerships and not a chain of more than five stores or outlets was held by the Assessment Review Court in Hamilton. This was supported by legal opinion. As a result, all Mother's Pizza Parlours are now assessed for business tax purposes under 7(1) (j).

### (2) Giant Tiger Stores (Ottawa)

Under a similar partnership arrangement, the County Judge for Ottawa-Carleton recently upheld the above principle in another case, *Giant Tiger Sales Ltd. and Regional Assessment Commissioner, Region #3* (C.J., Feb. 1975). The stores were originally assessed under 7(1) (e) as being a chain of more than five stores. However, it was found that:

- two stores were owned and operated by Giant Tiger Stores Ltd.;
- two stores were operated by separate limited companies that were 100% owned by Giant Tiger Sales Ltd.; and
- four stores were 50% owned by Giant Tiger Sales Ltd. and 50% owned by franchisees.

Judge Charles Doyle was impressed by what he felt to be an ambiguity in the interpretation of 7(1) (e), for he stated in his decision:

"Person" (as it relates to 7(1) (e) ) includes a corporation and it is significant in my view that section 7(e) omits the use of the words: "Directly or indirectly owned, controlled or operated by him"; words which are found in Section 7(c). Where there is ambiguity in the interpretation of the words of a taxing statute, the taxpayer must be given the benefit of the interpretation. I find that the omission of the above quoted words found in Section 7(c) (and) in Section 7(e) do not permit an interpretation of Section 7(e) which would include retail outlets "directly or indirectly owned, controlled or operated" by Giant Tiger Sales Limited. It is clear that no one corporation carries on business at more than five retail outlets and as such the appellant cannot be assessed at a rate of 50%. He must fall within the residuary 7(j) and must therefore be assessed at the rate of 30%.

It is clear from the above two cases that partnerships can be recognized as franchise arrangements in certain instances.

## Solutions to the problem of franchises for business assessment purposes

The reason franchises pose a problem to some is that they seem to be a convenient way for getting around 7(1) (e). That is, a huge multi-national operation can, through various legal means, manage to avoid the business tax altogether on its franchises. The franchise has many of the advantages of a large chain store, but unlike the chain store, the franchise pays business tax based on a lower business assessment.

In other instances, the franchisor may incorporate several holding companies to administer five or less outlets and thus avoid falling under 7(1) (e). As always, one option is to maintain the status quo. Alternatively, if the situation is to be changed, the existing legislation will have to be amended. Of course, this also would reflect a change in government policy toward the taxation of franchises.

There are several jurisdictions in the United States which have defined franchises for legislation purposes. If the franchise is to be assessed at 50% under 7(1) (e), then a definition will be necessary under Section 7. Should this be done, it must be remembered that all franchises, including automotive dealerships and service stations, will be assessed at the higher rate, unless exemptions are allowed.

The California Franchise Investment Act (emulated by Alberta) contains a definition as follows:

" 'Franchise' means a contract or agreement, either express or implied, whether oral or written, between two or more persons by which

- (a) the franchisee is granted the right to engage in the business of offering, selling or distributing goods or services under a marketing plan or system prescribed in substantial part by the franchisor; and
- (b) the operation of the franchisee's business pursuant to such plan or system is substantially associated with the franchisor's trade name, logotype advertising or other commercial symbol designating the franchisor or its affiliate."

Massachusetts has the following definition:

" 'Franchise' shall mean an oral or written agreement for a definite or indefinite period, in which a person grants to another person a licence to use a trade name, service work or related characteristic, and in which there is a community of interest in the marketing of goods and services at wholesale, retail, leasing or otherwise."

Even if The Assessment Act were amended by adding a definition or qualification of a franchise, the burden of business tax would still fall on the franchisee due to the fact that the franchisee is viewed as a separate person occupying the land for the purposes of a business. The franchisor still escapes the tax; nevertheless, the discrepancy in business assessment rates between chain stores and franchisors would be eliminated.

The franchise question points out the much larger question of business assessment rates in general and their inherent difficulties. As long as the various rates remain, the inconsistencies will remain. □

# REVENUE and YOU

*An address by  
The Honourable Arthur Meen  
Minister of Revenue*

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The following is a reprint of the address given by Mr. Meen to the County of York Law Association at Osgoode Hall, on January 30, 1975. [Ed.]

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I don't know exactly what the Association had in mind several weeks ago when I was invited to speak this evening. The suggested topic was "Revenue and You" which, at first glance, sounded innocent enough. But with a Cabinet shuffle in the wind, the subject, "Revenue and You", could be taken as something of a personal question to an incumbent like me.

Well, as things worked out, Revenue and Arthur Meen are still in partnership and I'm pleased about it. Just under a year has passed since I took over the Revenue Portfolio, and I can assure you there hasn't been much time for hobbies. To be candid with you, the kitchen has been pretty hot with the land speculation and land transfer taxes providing their own solution to the energy crisis. A great deal of work has been done in an effort to bring these two measures to a form which will accomplish our ends with the least amount of disruption to the normal course of business — including the practice of law. For this reason, among others, I personally am pleased with the opportunity to see the job through.

A great deal of attention has focused on the land speculation and land transfer taxes, and later I will refer to them in some detail — particularly the amendments to each. But my overall theme this evening is more general. Working within the framework suggested, I'd like to discuss "Revenue and You" from two perspectives. First, I'd like to discuss taxation from the point of view of its impact on taxpayers generally and its role as an instrument of public policy. And, secondly, I'd like to discuss taxation in an increasingly complex legal world.

Taxation is not a popular subject. Never has been and likely never will be. Mention the word outside the company of tax lawyers and accountants and you'll probably be talking to yourself pretty soon — that is, of course, unless you've discovered a way to get around them — taxes, that is. But that's another subject.

For the average taxpayer, taxation equals payroll deductions and pastel forms which are better left to someone else to complete. If taxation had an image, it would probably be the outstretched palm. This sentiment toward taxation has been with us for centuries and it is not likely to change overnight. There are, however, some quiet revolutions underway which may, in time, greatly alter the public perception of taxation. For one, the government services for which taxes are collected have become increasingly more visible and this has, I believe, already led to a more neutral

public attitude toward taxation. We can see the benefit from our schools, hospitals, public transit systems, and other public services, and I think we have come to accept taxation as requisite to maintaining our standard of living.

But aside from the increased visibility of government services, there is another element at work in changing public attitudes toward taxation. This other aspect is the more versatile role now being played by taxation in achieving social goals. For instance, today taxation is playing a far more important role in promoting income security and effecting income redistribution. At the Ministry of Revenue we have, therefore, had to learn how to write cheques as well as cash them.

New and specialized taxes, such as The Land Speculation Tax Act — and the non-resident aspects of The Land Transfer Tax Act — are now being used as a deterrent to undesirable pressures upon land values. Our standards for evaluating such taxes are equally new. Quite unlike the traditional revenue-raising objectives of taxing statutes, the effectiveness of this new breed of taxes is being measured not by how much, but rather by how little revenue is generated. To a veteran revenueur, such a change of pace does not exactly come naturally and some reorientation in thinking has therefore been necessary to administer these statutes fairly.

Now, if I may, I would like to return to the redistributive effect that taxation has on income and wealth. I might begin by saying that all forms of progressive taxation have this effect, at least to some extent. A progressive income tax system, for example, levies a higher tax rate on those with large incomes than it does on those of more moderate or relatively small incomes. The added revenues generated by the higher tax rates on large incomes enable a greater availability of government services to lower income groups than would otherwise be possible.

Ordinarily, we don't think of government services as a form of income or wealth, but when a person needs them, this aspect comes very sharply into focus.

In Canada, our personal income tax is progressive with its scaling of tax rates. But here in Ontario, we have gone a step further through the introduction in 1972 of the Ontario Tax Credit program. Under this system, a portion of property taxes and a portion of sales taxes are rebated according to a taxpayer's income. The amount of the tax credit is highest for those with relatively small incomes and scales downward the higher the recipient's income level. This is in line with the basic premise of progressive taxation.

In effect, the tax credit program introduces added equity into the provincial taxation system, and in the process reinforces the income redistributive impact of taxation generally. I might mention that, for the 1974 taxation year alone, OTC benefits will amount to about \$375 million, up from just over \$300 million last year. So we're not talking about loose change by any standard.

A second and perhaps more direct illustration of income redistribution through taxation is to be found in the Ontario Guaranteed Annual Income System — or GAINS, as it

*New and specialized taxes are now being used as a deterrent to undesirable pressures upon land values. Our standards for evaluating such taxes are equally new. . . the effectiveness of this new breed of taxes is being measured by how little revenue is generated. . .*

has come to be more popularly known. Under GAINS, senior citizens, the blind, and the disabled are assured of a minimum annual income of \$2,766. For qualifying married couples, the guarantee is twice that, or \$5,532 a year. The underlying principle of the system is that individuals who cannot, or ought not, work because of age or handicap should be provided with a means of meeting their financial needs. A corollary to that principle is that the purchasing power of the guarantee should be protected against the impact of inflation. For that reason, the GAINS guarantee has already been increased twice to its current level since being established last July.

Complementing the GAINS program is a Drug Benefit Plan entitling low-income senior citizens and others to free prescription drugs. Here again, income redistribution is at work, with the burden of prescription costs being removed from the elderly and shouldered by general tax revenues.

The second non-revenue raising function of taxation here in Ontario is, by its nature, controversial. I am, of course, talking about the use of taxing disincentives. The two primary cases in point are The Land Speculation Tax Act and the non-resident features of The Land Transfer Tax Act.

Great controversy has surrounded these taxes since they were announced as part of the Treasurer's Budget statement last spring. As I have already said, the kitchen has indeed been hot, and in the intervening months to the present, I have done a great deal of listening, thinking and talking about both taxes.

From the beginning, I have acknowledged that the legislation as originally introduced would doubtless require amendments as we gained experience with it, and during the summer months and into the fall we received and indeed welcomed submissions from many professional groups. And, I can assure you that all recommendations put forward were considered very carefully. I might also say that the open-mindedness we have sought to maintain is, I believe, amply demonstrated in the substantial changes to The Land Transfer Tax Act which have already been adopted and, in the case of The Land Speculation Tax Act, in the amendments which are now before the House.

In a nutshell, I think that in the land speculation tax we have a valuable and effective deterrent to speculation. And with the adoption of the amendments which are now in Committee, I further believe that the instances of inequit-

*... there are quiet revolutions which may greatly alter the public perception of taxation. . . For one, government services for which taxes are collected have become increasingly more visible. . . We can see the benefits . . . and accept taxation as requisite to maintaining our standard of living. . .*

able taxation will be few and far between. To begin with, there is a wide range of exemptions under which the vast majority of transfers are wholly unaffected by the tax. For transfers which are not specifically exempted, there are allowances for such items as capital costs, net maintenance costs, acquisition and disposition costs, which mitigate against the impact of the tax. In the case of farm land, there is also a special allowance of 10 per cent of the acquisition cost compounded yearly, for each year the property is held within the family.

And finally, if after all allowance features there is still a taxable value when a farm property is sold, the tax liability is reduced by 10 per cent for each year the property has been held within the family.

Investment properties, such as apartment buildings, duplexes, etc., are also entitled to the 10 per cent yearly reduction in tax for the full period of ownership, including years before as well as after April 9, 1974.

Turning briefly to the non-resident features of The Land Transfer Tax Act, I would underscore that many forms of foreign investment are welcomed in Ontario. However, we ask that in each case, the investment contribute to, as well as benefit from, the future growth of this province. Since the 20 per cent rate applying to non-residents was established, a series of amendments has been adopted. They, in turn, have better defined the application of the higher rate and have better codified the grounds for obtaining exemption.

One of the important amendments we have made is to grandfather existing industrial and commercial businesses already operating in Ontario on April 9, 1974, so that the higher 20 per cent rate will not apply where an expansion or relocation is involved. For businesses that wish to come to Ontario from outside Canada, we are also prepared to forego the higher tax rate, provided that the company involved undertakes to become resident within 5 years.

As for the non-resident land developers — whether or not they were here on April 9th — we are similarly willing to forego the higher tax rate by way of deferment, provided that the property involved is in fact developed and resold.

I should also point out that the Act has been amended to remove the possibility of the 20 per cent rate being triggered in the event of a mortgage foreclosure by a non-resident. It was not our intention to discourage mortgage lending by non-residents, and the problem which arose was

a technical shortcoming of the legislation. As amended, the higher 20 per cent rate will not be attracted in circumstances of foreclosure, as long as foreclosure was not used as a means of getting around the 20 per cent rate in the first place.

Given these provisions for exemption, I don't think we are taking an unreasonable approach to the foreign ownership issue. We have simply taken action to discourage wholesale land purchases by non-residents, which we believe are not in the best interests of Ontario.

Now — as I said at the opening, "Revenue and You" as a title for these remarks has given me an opportunity to pretty well set my own sails as far as content for the address is concerned. So, I'd like to change course for a moment and make a few comments about the increasing complexity of the world of the legislator and the practicing lawyer. I speak with some authority for, as a legislator, I helped to further complicate your lives with these new land taxes and, as a lawyer, I appreciate the difficulties created.

I don't need to remind this audience that when these taxes were introduced, their impact was — well, noticeable. At first, when my staff and I went out to discuss the new legislation, it was not unusual, especially among groups of lawyers or realtors, to hear that the audience was making book on whether or not we'd show up. Well, those days are behind us, but I'd like to reflect for a moment on the environment that existed at that time. It was unfortunate for you and me alike that such complicated legislation had to be introduced without prior consultation with those professional groups it would most seriously affect. As an article of the Budget, confidentiality precluded public discussion.

Secondly, the timing of this very pervasive legislation was truly unfortunate. It came in the Spring — the high water mark for realty closings, when the market was at a near fever pitch. We even tangled with a postal strike; our telephone lines were jammed with calls and our staff was inexperienced. We could not have picked a more difficult time or circumstance for you, as well as for ourselves, to introduce such legislation if we had tried.

And tonight, I would like to acknowledge, as I have before similar groups in the past, the patience and support that we did get from the professionals involved — of these, lawyers were foremost. There was criticism, but there was also a strong current of support. Land speculation has been measurably curtailed, and that early current of support, in my view, has been justified.

Nevertheless, in my view the legal world and the laws that are in it are, for the most part, too complex. This situation has not developed by chance, however. The following maxim gives us as terse an explanation for this predicament as any:

"A law is written not so an honest man who does his business fairly can understand it; but so a dishonest man approaching the law, cannot thereby obtain undue advantage."

Today, it would seem that the moment a piece of tax legislation is set down, many of your clients ask not how does a tax apply, but rather, how do I avoid it altogether?

With the new land taxes, we were dealing with our prime resource — land. The legislation was aimed at those who had been buying it like soybeans in the future market. In response, our draftsmen tried to anticipate all avenues of escape, and thereby fashioned rather complex statutes. The client's demands and the advice of lawyers and accountants have made it necessary to anticipate all means of avoidance. This, of course, adds complexity to our legal world.

Yet, I would be a mile short of fairness if I were not to lay a fair share of the blame for complexity in our legal affairs on the shoulders of government. Only a few short years ago, you might well have asked: Why is the Ministry of Revenue involved in redistributing tax money through a guaranteed income system, or running a tax credit system, or trying to curtail realty speculation or foreign land ownership?

Our clients, yours as lawyers and mine as a legislator — in short, the public — have demanded that government extend its service far beyond our forebearers' wildest dreams. Filling these demands requires more complex legal and administrative systems. Sometimes we in government have been all too willing to comply. When I look at a deed from a few decades back, it seems so simple, "A conveys Black-acre to B", with possibly nothing more than affidavits of marital status and execution. Today we require affidavits or clearances for The Planning Act, The Registry of Land Titles Act, The Land Transfer Tax Act, The Land Speculation Tax Act, The Corporations Tax Act — to mention the more obvious ones. A deed and its documents can look like a tossed salad, including the anchovies.

Although I am no Socialist, I make few apologies for what some say are the intrusions of government into the private sector. If done responsibly, the benefits to society far outweigh the inconvenience and initial adjustments that are required. Nevertheless, something must be done to create a more accommodating spirit between legislators and lawyers so that the business of government may be less perplexing.

Simpler methods must be found for the way we do things. For instance, I am concerned with the whole area of tax liens and their effect on the conveyancing of property.

In other areas, simpler procedures must be adopted. For example, in 1975, claimants for the Ontario Tax Credit System will have to apply separately to Ontario for their rebate. The resultant bureaucracy will create a potential for misunderstanding. Beyond the procedures for filing claims, we must have yet another layer — an appeals group. The way becomes more and more complex. I often feel that the measure of good government we can provide will be judged by how responsive we can be to all this.

I was impressed by the action of the federal finance

minister, John Turner, when he introduced The Tax Review Board Act in December, 1970, setting up that tribunal in a completely independent fashion to review tax appeals unhampered by any Ministry influence. The Commercial Registration Appeal Tribunal, under the Ontario Ministry of Consumer and Commercial Relations, works in a similarly independent manner. Possibly, we at my Ministry should be looking at a similar set-up to handle our appeal proceedings. This is one concrete example where I think outside consultation would be of value to us. In this single area, namely the complexity of ensuring a fair hearing within my Ministry, I could use some outside opinion. This can be best achieved by ongoing discussions between my staff and the legal profession.

Ian MacDonald, former Deputy Minister with Treasury, Economics and Intergovernmental Affairs, who chaired the Ontario Joint Committee on economic policy, has expressed a similar opinion in his report.

He said, and I quote:

"Government today has a tremendous impact on the business sector. Changes in taxation or regulations concerning the environment, land use or terms of employment, can have a serious and unexpected effect on even the largest corporate enterprises. Adverse effects could be minimized through advance warning and consultation with the private sector."

A week ago tonight, I hosted a dinner to express my appreciation to the *ad hoc* committee that was set up last May to advise us on the implementation of the original land speculation and land transfer legislation. I'm convinced that discussions with this group, prior to the legislation, would have meant a smoother road.

With these reflections in mind, I think it appropriate to advise this audience tonight that I am setting up a group of practicing lawyers from across the province to meet with my staff and me on an ongoing basis. I would see our getting together regularly for discussions that would range over any area where my Ministry has jurisdiction. So, if I may take the liberty, I'd like to ask your president to suggest two or three nominees who could help us set up this group and outline its terms of reference.

Such a body can, I hope, make more than a token contribution to simplifying that complex world of the lawyer and the legislator I've just described.

Well, gentlemen, I hope this proposal has added a new dimension to the title, "Revenue and You." Now, not only does "Revenue and You" refer to the connection between the Ministry of Revenue and you as taxpayers, but also to the contribution you, as lawyers, can make as we seek new approaches to better laws and to better government. □

# International Association of Assessing Officers

Established 1951



Now all men by these presents: That the Committee on Awards of the International Association of Assessing Officers, having examined the bulletins and periodicals submitted by the affiliate members of IAAO, has adjudged that

## ASPECTS

Published by

Assessment Standards Branch, Assessment Division,  
Ontario Ministry of Revenue

to be the best of these published during 1975, and in consequence declares said association to be winner of the

## 1975 Zangerle Award

of the International Association of Assessing Officers

In Witness thereof, we have hereunder set our hands this  
16th day of September, 1975.

Committee on Awards

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## ASPECT WINS THE ZANGERLE AWARD

*For the second time in five years, Aspects has won the Zangerle Award. This award is presented by the International Association of Assessing Officers to the best periodic regional, state, or provincial assessment publication during the past year.*

*Presentation of the Zangerle Award was made in September at the I.A.A.O's annual conference in Washington, D.C. Aspects previously won the Zangerle Award in 1971. □*

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# DATA BASE

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Terry Russell was appointed Deputy Minister of Revenue effective July 1, 1975, replacing D. A. Crosbie, who became Deputy Minister of Housing. Mr. Russell was formerly the assistant Deputy Minister of Finance in TEIA.

Mr. Russell has an honours B.Sc. from the London School of Economics, and M.A. and Ph.D. degrees in economics from the University of Toronto. Prior to joining the provincial government, he was a lecturer at McGill University.

Mr. Russell has held a number of positions in the government, including the executive directorship of TEIA's Fiscal Policy Division. As assistant Deputy Minister, he was responsible for budget planning, finance policy and management, taxation policy and reform, and federal—provincial—municipal financial relations.

\* \* \*

Valuation of real property in unorganized territories has been carried out by the Ministry of Natural Resources (formerly the Department of Lands and Forests) for some years under the provisions of The Provincial Land Tax Act. Now this function is being transferred to the Assessment Division of the Ministry of Revenue.

As a result of discussions between representatives of the two Ministries, it has been decided that Natural Resources will continue the 1975 assessment program until the end of September, 1975. As of October 1, Revenue will assume full responsibility for land tax assessment. This includes handling appeals against 1975 assessments and those still outstanding from previous years.

Prior to the transfer date, assessment commissioners in affected regions will meet with regional and district officers of Natural Resources to familiarize themselves with the relevant appraisal records, maps, correspondence, and other materials.

No transfer of staff between the Ministries will occur as a result of the program. However, long-term cooperation between the Ministries is anticipated in order to ease the transition.

\* \* \*

Elections were conducted recently throughout the Ministry of Revenue for representatives to the Affirmative Action Committee of the Ministry's Equal Opportunity Program. Listed below are the delegates from the Assessment Division. Anyone wishing information about the program or help with a problem should contact his or her representative.

## Regional Assessment Offices

- |                            |                  |
|----------------------------|------------------|
| 1. Algoma                  | Lynda Dipasquale |
| 2. Brant-Haldimand-Norfolk | Donna Sharp      |
| 3. Bruce-Grey              | Shirley Hindle   |
| 4. Cochrane-Timiskaming    | Wanda Parulski   |
| 5. Dufferin-Wellington     | Elaine Porter    |

|                                                                |                                       |
|----------------------------------------------------------------|---------------------------------------|
| 6. Elgin-Middlesex-Oxford . . . . .                            | Joyce Perry                           |
| 7. Essex . . . . .                                             | Barbara Marshall & Dorothy Montgomery |
| 8. Etobicoke-York . . . . .                                    | Catharine Donaldson                   |
| 9. Frontenac-Lennox & Addington . . . . .                      | Maureen Petersen                      |
| 10. Haliburton-Peterborough-Victoria . . . . .                 | Sharon Quibell                        |
| 11. Halton-Peel . . . . .                                      | Esther Williams                       |
| 12. Hastings-Prince Edward . . . . .                           | Joanne M. Pickell                     |
| 13. Huron-Perth . . . . .                                      | Sharon J. Miller                      |
| 14. Kenora-Rainy River-Thunder Bay . . . . .                   | Elaine Cash                           |
| 15. Kent-Lambton . . . . .                                     | Mary Francis                          |
| 16. Lanark-Leeds & Grenville . . . . .                         | Vivian Gifford                        |
| 17. Manitoulin-Sudbury . . . . .                               | Gwana Samuels                         |
| 18. Muskoka . . . . .                                          | Phyllis Freeland                      |
| 19. Niagara . . . . .                                          | Jean Jones                            |
| 20. Nipissing-Parry Sound . . . . .                            | Joyce Newlands                        |
| 21. North York . . . . .                                       | Janet Gordon                          |
| 22. Ontario . . . . .                                          | Beverley Gibson                       |
| 23. Ottawa-Carleton . . . . .                                  | Sonya Donaldson                       |
| 24. Prescott & Russell, Stormont, Dundas & Glengarry . . . . . | Shirley Poapst                        |
| 25. Renfrew . . . . .                                          | Muriel E. Bauthus                     |
| 26. Scarborough-East York . . . . .                            | Anne Reid                             |
| 27. Simcoe . . . . .                                           | Eleanor Presley                       |
| 28. City of Toronto . . . . .                                  | Betty Smith                           |
| 29. Waterloo . . . . .                                         | Nancy Kretschman                      |
| 30. Wentworth . . . . .                                        | Linda Scattonlon                      |
| 31. York . . . . .                                             | Martha McBurnie                       |

#### 801 Bay Street

1. Minister's and Deputy Minister's Offices . . . . . Allison Reid
2. Assessment Standards Branch and Executive Director's Office . . . . . Michele Turner

\* \* \*

A change in attendance credit policy in the Ministry of Revenue has resolved the problem of time off for working parents with sick children. Until recently, in some Ministry offices, an employee had only two potential options: to take time off without pay or to misrepresent the situation by saying he or she was sick. Upon reviewing the situation at the request of Equal Opportunity Program Leader Jeanne MacDonald, the Personnel Branch indicated that leave for compassionate reasons could include use of attendance credits for employees needing time off to care for a sick child. This extension of attendance credit use comes under Section 15(7) of the regulations.

This problem was brought to light in telephone interviews with members of the Ministry's Affirmative Action Committee. The then Deputy Minister of Revenue, Mr. D. A. Crosbie, approved the expanded interpretation as Ministry policy and commented that the extension was consistent with "other initiatives being taken to permit women to assume more meaningful roles in government." The Women Crown Employees Office called it "a worthwhile precedent, which we hope will be emulated in other Ministries."

\* \* \*

A new publication, *A Guide to The Assessment Act*, is currently being sent to all Area Directors, Commissioners, Coordinators, Valuation Managers and assessors.

The *Guide* marks a logical step in the development of the Assessment Case Digest System. It is designed to provide the assessor with a handy reference to important court decisions and to encourage the use of the whole Case Digest itself when fuller summaries and/or more complete listings of cases are required.

The *Guide* consists of two sections:

- 1) Assessment Case Digest Abridgement, and
- 2) Commentary on The Assessment Act.

The abridgement contains important cases which are briefly summarized in "headnote" form and arranged under relevant sections of The Assessment Act. The Commentary focuses on topical issues emanating from the Act and discusses them succinctly in terms of the relevant case law.

Regular updates of the *Guide* will be prepared and sent to all users.



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# OFFICE SPECIALTY:

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## Introduction

Since the Ontario Government introduced The Assessment Act in 1970, assessment consultants, property tax agents, lawyers and, hopefully, assessors have been labouring under the impression that Section 27 of the Act required properties to be assessed at market value.<sup>1</sup> The Act was most helpful in defining market value as "the amount that the land might be expected to realize if sold in the open market by a willing seller to a willing buyer."<sup>2</sup> Therefore, the stage for assessment at market value was set, and for the past four years those involved have been playing their respective parts in so determining real property assessments. The participants (assessors, consultants, lawyers and appeal tribunals) have often followed their own ideas but occasionally have come together in confrontation.

Mr. M. G. McQuaid, a Toronto solicitor, discussed the problems of determining market value in an article in *Aspects* #10 (Winter, 1973).<sup>3</sup> The lack of a body of jurisprudence was discussed, as were the concepts of "highest and best use" and "replacement cost" vs. "market value" as a determinant of market value, with particular reference to the Office Specialty case.<sup>4</sup>

## The Office Specialty Case

The Office Specialty case had been heard and decided by the Ontario Court of Appeal at the time of his article. Mr. Justice Kelly's discussion of approach to value in that decision ap-

peared to clarify the issue. It was hoped by some, myself included, that the subsequent appeal to and decision from the Supreme Court of Canada would consolidate the Ontario Court's decision. The Supreme Court decision was handed down in the middle of October, 1974, and on the face of it appeared to contradict generally-accepted interpretations of the phrase "market value". However, before discussing its implications, it would perhaps be pertinent to set out a brief resumé of the history of the case. Appeals at the first two levels<sup>5</sup> are not reported; the first court of record, the Ontario Municipal Board, is also the occasion for a *trial de novo*, and the resumé starts at that level.<sup>6</sup>

At the OMB, two witnesses appeared for the defendant. The first, the industrial valuation manager for the regional assessment office, gave evidence as to how the assessment had been prepared. The building was valued by applying a dollar rate to the square foot area of the building, plus a figure for additional external improvements such as a water tower. All these items were depreciated to arrive at the building assessment. He also gave evidence about two properties which had sold and which tended to confirm the assessment.

The cross-examination did not strongly challenge this evidence and concentrated instead on asking the witness to confirm that he had used a manual approach rather than a market value approach. He acknowledged that he had used a manual method, but as-

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Mr. Clark is a Professional Associate of the Royal Institution of Chartered Surveyors and a senior real property appraiser member of the Society of Real Estate Appraisers. He studied at Sheffield College of Technology in England, and has been an appraiser in both Great Britain and Canada. He currently works for Vercan Limited in Toronto as an appraiser. [Ed.]

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# ANOTHER VIEW

J. HOWARD CLARK

serted that this produced market value.

The second witness for the Assessment Commissioner was the valuation co-ordinator for the Central Area of the Assessment Division. He had performed an independent assessment on the property, using the appropriate manual, and this assessment confirmed the one prepared under the valuation manager's supervision. The coordinator also checked his assessment by means of an income approach, based upon the rental of one of the sales used in the manager's evidence, and the resulting figure indicated that the assessment was correct.

The second witness was cross-examined on the effect of trying to sell the property on the open market. He believed that it would sell for the assessed figure if Office Specialty were in occupation or, if the company were a potential purchaser, the assessed value would be the figure they would be prepared to pay. The following are extracts from the Ontario Municipal Board hearing transcript of the cross-examination of the coordinator:

"Q. (Counsel for Office Specialty) Suppose the building in Holland Landing became vacant, what would it be worth?

"A. (Witness) Ah, that is a different situation, sir. If that building was vacant, and sold for — I suggest to you a figure that the Judge has put there of \$300,000 — and a different use came through, I

would suggest this is the market. But when it has not sold, when it is being used for its design and lay-out, then there is no problem at all. . . ."<sup>7</sup>

"Q. (OMB Chairman) Mr. Ross, your final approach, the cost of replacement method, are you saying in effect that this represents the selling price, the market value. . . ?

"A. (Witness) In my opinion, yes sir."<sup>8</sup>

For Office Specialty two witnesses were also called. The first was an industrial real estate broker who presented in evidence his opinion, from his own experience, that the subject property was worth "\$2.00 per square foot" for "from 145, to 150,000 square feet," giving a value of \$300,000. He considered that because Holland Landing was located so far away from a major urban centre, it was a "depressed area". When asked about comparable sales which might relate to the subject property, he had no details with him but, from recollection, informed the court of a building which he had sold. The Board could not give credence to this evidence from recollection, inferring that the court could not proceed without facts, since it could not "cross-examine 17 years of experience".

The second witness, also a broker and a long-time advisor to Molson Industries Ltd., the parent company of Office Specialty, presented his opinion that the value was in the region of

\$300,000; that the buildings had not been suitable for Office Specialty, and that in this location the company was having labour problems. He was cross-examined as to why, as real estate advisor to the company, he allowed them to remain in this location and why they had, subsequent to the years of the assessments under appeal, constructed a large extension to the building. His answer was to the effect that the decision to remain in Holland Landing was made by the company president, who had a penchant for small-town locations. That decision was contrary to the advice presented to the company by the witness after carrying out a study and analysis of the Holland Landing location.

The closing statements of counsel were not reported. However, it is probably fair to assume that, for the Assessment Commissioner, the summary went as follows:

1. The assessment was made in accordance with the Acts;
2. In view of the absence of sufficient comparable sales, the depreciated cost of replacement approach was valid;
3. Other industrial properties had been assessed in the same manner;
4. The property was occupied and in use and therefore the forced sale value of \$300,000 was not the market value;

and, for Office Specialty:

1. The assessor did not assess in accordance with the Acts, since he chose

- to assess at depreciated cost of replacement and not at market value;
2. Showing that other industrial properties had been similarly assessed did not produce equity in accordance with the Act; and
  3. The market value, and therefore the assessed value, should be \$300,000.

Chronologically, we come next to the decision of the Ontario Municipal Board. Once again, I have chosen to ignore the discussion of the synonymy of actual value and market value. After setting out the facts of the case, the Board made the following statement, which ultimately became the crux of the matter for both Kelly, J.J.A. in the decision of the Ontario Court of Appeal, and for Judson, J. in the decision of the Supreme Court of Canada:

"The basic issue here is *whether, in determining the assessment according to market value, it is open to the assessor to arrive at that value by using a manual of rates to determine the depreciated replacement cost, where the property, if exposed in the market and an actual sale consummated, would most likely bring a sum considerably less than this depreciated replacement cost.* The real estate brokers called on behalf of Office Specialty Limited would naturally be in closer touch with the current trends in prices for industrial properties within this area, and if the subject property was vacant and unused at the time, the Board would be in a better position to give effect to depressed market conditions. However, the ratepayer was using the property to its fullest potential and from the evidence presented, the light manufacturing business carried on appears to be a viable efficient operation. The company must be included as a potential purchaser for such property if it were offered for sale, which would have a bearing on the determination of the price that a willing purchaser would pay for the subject lands if offered in the open market. *The open market as envisaged by the Act means a normal market, one with sufficient buyers and sellers to produce an atmosphere of competition.* Where for one reason or another the competitive market is not available, the assessor must arrive at the assessment for the property by some other reasonable method. In this particular case, the replacement cost method was selected as a suitable procedure. The Board was ad-

vised that this method is used for other industrial properties within the municipality, and provides a reasonable apportionment of the municipal cost burden among the classes of residential, commercial and industrial land uses.

"It was not demonstrated successfully that the rates used in calculating the replacement cost were in error in any way. The Board has concluded that under the circumstances this method is the proper one to be applied to this property at least until more market data information is available. The Assessment Commissioner, as appellant for the Assessment made in 1969 for taxation in the year 1970, has therefore discharged the onus incumbent on him in this appeal." (Underscoring by author.)

The Board proceeded to set the assessment for the buildings at \$663,200, which was a slight increase from the original assessment under appeal. Subsequently, Office Specialty appealed the Board's decision to the Court of Appeal of the Supreme Court of Ontario.

### Appeal to the Supreme Court of Ontario

There are no transcripts available from this hearing. However, the submissions by counsel for the appellant and for the respondent have been inspected. It is understood that argument took place based on those submissions. The reasons for appeal by Office Specialty also gave a guide to the direction of the appeal. Two notices of appeal were submitted dealing respectively with the two assessments under appeal and the reasons are similar in each case, the only difference being an objection on the actual value — market value argument. Simply stated, the reasons were that the Ontario Municipal Board erred in law in the following ways:

1. By valuing "solely upon the basis of the cost of replacement thereof, less depreciation" and not at market value.
2. By "failing to take into account . . . the fact . . . that if the property were sold on the market it would most likely bring a sum considerably less than the depreciated replacement cost."
3. By holding that in determining market value
  - "a. the owner of the lands must be notionally taken to be a bidder for the purchase thereof, and,

## OFFICE SPECIALTY:

- b. Unless a competitive bidding situation prevails, the assessor cannot refer to market value but must use another method."
4. By "holding that because the replacement cost method was used for other industrial properties within the municipality that it was for this reason a proper method to use in assessing the subject lands."

No transcript is available of the hearing before the Ontario Supreme Court and the only way we can consider the matter further is to look first at the respondent's statement of fact and law, and secondly at the decision of the Court itself.

The "Statement of Fact and Law of the Respondent" sets out the following main points:

1. A brief resumé of the history of the property.
2. Remarks addressed to the actual value — market value argument.
3. Statement that the assessment was based on the Provincial Assessment Manual, uniformly applied throughout the county.
4. Statement that, although neither the income approach nor the market comparison approach had been used for assessment, evidence was given before the Board which verified and corroborated the assessments.
5. A resumé of the evidence presented on behalf of Office Specialty with the remarks that "both witnesses offered little factual basis in their evidence to justify these opinions" and "all of such evidence is too vague, indefinite and general to warrant an assessment of \$300,000."
6. A submission that the appeals should be dismissed because the assessments cannot be shown to be "plainly wrong in fact . . . or based upon some wrong principle of law."

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### Decision of the Supreme Court of Ontario

The decision, dated the 20th of September 1972, was unanimous. It commenced by setting out certain facts of the case followed by a discussion of two points of law: the actual value — market value implications of the Board's decision, and the issue that the Board had proposed for itself regarding the validity of the replacement cost approach when an actual sale would probably bring a lower price.

The Supreme Court believed that a negative answer to this question was to be found in the Act itself. They indicate that since the Board appears to have found that the open market selling price of the property was less than the assessor's value, they can "see no justification for the application of some other formula in order to confirm the figure on the roll. Had the Board... gone on to make a finding of what would have been the amount the property would have brought if exposed for sale in the open market... it would thereby have established unequivocally the market and assessed value at that figure."

There followed a general discussion on the circumstances which would lead to the subject property being a "unique one not amenable to the actions of the market," thereby possibly justifying a depreciated replacement cost valuation, as in the Sun Life case. However, in the present case, the Court concluded that the Office Specialty property was not unique in that sense. They held, therefore, that "The Board erred in proceeding on the basis that the proper manner to determine the market value of the subject building was solely by a calculation of the depreciated replacement cost of the building. The direction of the Legislature is to find the actual or market value as the case may be. In that quest

the cost of reproduction may be useful knowledge but is, at best, but one piece of evidence which may be considered and it is not the market value *per se*".

The Court ultimately decided in the appellant's favour and, since it had no power to review facts, the two assessments were remitted to the Ontario Municipal Board for rehearing. It stated that "In view of the paucity of evidence relevant to the issue before the Board either party, if so advised, should be at liberty to adduce further evidence. . ."

### Comments

The following appear to be the key points from what seems to be a fair and rational decision:

1. Market value is not obtained by the depreciated cost of reproduction alone, and in this case there was evidence to support both a market comparison and an income approach.
2. The evidence presented before the Board was lacking in quality and perhaps in quantity, and both parties were permitted to adduce fresh evidence at a Board rehearing.

### Appeal to the Supreme Court of Canada

The decision of the Ontario Supreme Court was appealed by the Assessment Commissioner; however, we have not had access to any of the documents or transcripts to assist in our further consideration of this matter, other than the "Reasons of the Court".

The facts of the case are stated, and then the Court goes on to say, "The problem before us is clearly stated in the reasons delivered by the Municipal Board in the following terms:

'Firstly, consideration is given to the effect of the new legislation on the assessment of property. One appeal is brought under *The Assessment Act*, R.S.O. 1960 as amended, and the second appeal is governed by the new act, *The Assessment Act*, 1968-69 as amended. In accordance with the terms of the old act, the assessment shall be made according to actual value which has been held to mean market value.

The new act specifically states that the assessment shall be made at its market value and this term is defined as the amount that the land might be expected to realize if sold in the open market by a willing seller to a willing buyer. This principle

has long been accepted as the criterion to be followed in determining market value, and the Board has therefore concluded that there is no useful distinction to be made between actual value as enumerated in the old act and market value as set out in the new legislation.' "

The Court concluded that "the Municipal Board was right in holding that the evidence before it proved that the market data method of valuation in this particular case could not be used to determine market value or actual value.

"This building is not going to be put on the market. It is thoroughly suitable for the business being carried on and it is significant that it was being extended by its owner while these appeals were going on.

"I think that in ascertaining 'actual' or 'market' value an assessor has to regard the owner as a possible purchaser or estimate what he would expend on a building to replace that which is being valued."

The Court also quotes from *Montreal v. Sun Life Assurance Co. of Canada*:<sup>9</sup>

" 'Their Lordships would agree that where no sale is contemplated and, indeed, any sale would be difficult, what has been called the higgling of the market is not an element of much if any consequence, but nevertheless the ultimate aim is to find the exchange value of the property, i.e., the price at which the property is saleable. In reaching their result the appointed Tribunal must take into account not only the amount which a buyer would give but also the sum at which the owner would sell. What the sum would be is, as the authorities have pointed out, best ascertained either by regarding him as one of the possible purchasers or by estimating what he would be willing to expend on a building to replace that which is being valued. But the owner must be regarded like any other purchaser and the price he would give calculated not upon any subjective value to him but upon ordinary principles, i.e., what he would be prepared to pay, if he was entering the market, for a building to meet his requirements, or would be willing to expend in erecting a building in place of that which is being assessed.'

"I would allow the appeals and affirm the decisions of the Municipal Board. The municipality is entitled to its costs throughout."

## Comments and Conclusions

It is probably fair to say that the Supreme Court really endorsed the decision of the Ontario Municipal Board. Therefore, any analysis of the final decision should refer in some measure to the decision of the Board.

With due respect, I believe that the learned judges drew the wrong conclusions from the logic which they employed. They state their agreement with the Municipal Board that "market data... could not be used to determine actual value or market value". This decision is based upon the evidence before the Court and, on that basis, it would be difficult to argue with their lordships' decision. However, this dicta does not suggest that actual value or market value is not the target at which the assessor should aim.

Their lordships next go on to say, "The witnesses stated plainly that no purchasers for this building *for its present use* would likely be found". This does not mean that no purchaser would be found, but that most purchasers would not choose to use the property for a purpose identical with its present use. This state of affairs is true of most sales of real estate of the types which are not purely investment properties. Very few consecutive owners of the same parcel of real estate have identical intentions with regard to the use to which they will put the property. This fact does not deny the existence of a market.

The Ontario Municipal Board thought differently, however, for they introduced a new interpretation, extending the terminology of "market value". They remarked firstly that, "The new act specifically states that the assessment shall be made at... market value and this term is defined as the amount that the land might be expected to realize if sold in the open market by a willing seller to a willing buyer". They then go on to say, "The open market as envisaged by the act means a normal market, one with sufficient buyers and sellers to produce an atmosphere of competition".

Most people involved actively within the real estate market would find it hard to agree with the Board's view of that market, unless, that is, the Board would agree that it only requires two buyers and two sellers to create the appropriate atmosphere. We can only speculate on that. Whatever the conclusion, however, it is highly likely that the Office Specialty property could have been the subject of a sale in a market "with sufficient

buyers and sellers to produce an atmosphere of competition". Therefore, the Ontario Municipal Board either chose to ignore the evidence before it, or it misinterpreted that evidence. Instead, they concurred in the assessor's reliance upon the replacement cost method. This is based upon the Board's opinion that "Where for one reason or another the competitive market is not available, the assessor must arrive at the assessment by some other reasonable method". On that basis it is indeed open to the assessor to use a reasonable alternative method. However, to repeat the words of the Board, is it "...open to the assessor to arrive at that (market) value by using a manual of rates...?" My interpretation of this statement is that, while it is open to the assessor to use another reasonable method, the result of his application of this method should be the market value of the property.

Both the Board and their lordships now proceeded to consider the alternative. Again, we would do well to look to the statement by the Board earlier in its decision: "The basic issue here is whether, in determining the assessment according to market value, it is open to the assessor to arrive at that value by using a manual of rates to determine the depreciated replacement cost, where the property, if exposed in the market and an actual sale consummated, would most likely bring a sum considerably less than this depreciated replacement cost". At this point, a logical person would conclude that the Board can answer its own question with an emphatic "no". This is exactly what the Court of Appeal did in its decision. Kelly, J. A. said that "stated in these bold terms the question is answered in the negative by the Act itself". It is self-evident that whatever the lesser value is, that value is the market value, and the figure produced by use of the manual is unacceptable as market value for assessment.

Again, unfortunately, the Supreme Court of Canada failed to come to grips with this one point. It was impossible for them to deny the requirements of the Act; instead, they appear to have ignored that question. In affirming the decisions of the Municipal Board they reasoned that

"...in ascertaining 'actual' or 'market' value, an assessor has to regard the owner as a possible purchaser or estimate what he would expend on a building to replace that which is being valued".

They base this reasoning on the Sun Life case, which does indeed reach a

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similar conclusion. However, the obiter dicta quoted by their Lordships from that case also includes an important qualification of the conclusion:

"But the owner must be regarded like any other purchaser and the price he would give calculated not upon any subjective value to him but upon ordinary principles, i.e., what he would be prepared to pay, if he was entering the market, for a building to meet his requirements...".

There are strong indications here that the owner of the property could only be considered a prospective purchaser on the same basis as any other purchaser and, in spite of this, it appears that the Supreme Court of Canada allowed the assessment to be fixed on the basis upon which it was originally made. This very basis is contrary to the requirements of the enabling statute, as was unwittingly acknowledged in those important words uttered by the Board and quoted above.

## Summary

The significant points which arose from this case are:

1. The ratepayer failed to introduce good evidence as to market value.
2. The ratepayer failed to attack the method of assessment and therefore lost the chance to obtain a favourable decision based upon the manual approach, when all else failed.
3. The Ontario Municipal Board and the Supreme Court of Canada should have spoken out more strongly against the market value evidence presented, its lack of substantiation and the apparent circumstantial manner in which it was arrived at. If they had done so, then their confirmation of the assessment, based upon the manual

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approach, would have been more comprehensible.

4. It has been argued that the decision of the Supreme Court of Canada completely disregards the requirement for assessment to be at market value, as defined in the Act. I do not believe this to be the case. In my opinion the Court side-stepped confrontation with the market value requirement by applying the guidelines for a unique building, from the Sun Life case, to the appeal property. The Ontario Court of Appeal had found that the Office Specialty property was not unique in that sense and, from my experience in appraisal and assessment work, I would have to agree with them. However, the Supreme Court, having made the decision to follow the Sun Life principle, could do little else but confirm the assessment.

5. If there is any fault in this case, it must lie with the evidence that was given before the Ontario Municipal Board. It was clearly as a result of this evidence that the Board and, subsequently, the Supreme Court, decided that there were no comparable properties to assist in arriving at the assessed value by any other method than a replacement cost approach.
6. The solution to some of the problems currently being faced in assessment appeals in Ontario and perhaps in other provinces, is a more careful definition of the basis on which assessed value should be determined. The term "market value" has considerable weakness, even when defined as in The Assessment Act. Market value of what? Of the mortgage? Of the freehold as if unencumbered? Of the lessor's interest? Of the lessee's interest? And now, other alternatives: the market value as if there were no market? Or as if the property were fully occupied? One witness for the Assessment Division seemed to believe the property had two market values. If the property were vacant, the market value was \$300,000, and if occupied, \$666,000. Why should one be more correct than the other for assessment purposes?

It is time for the issue to be clarified so that both assessors and tax consultants can begin to work under the true principles of market value. The time to remove the uncertainty is now, before the provincial reassessment is

made public, so that all parties can approach the time with a clearer understanding of the issues involved in equitable assessment. □

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## FOOTNOTES

- <sup>1</sup> *The Assessment Act* 1968-1969, Ch. 32 as amended, S. 27 (1).
- <sup>2</sup> *The Assessment Act* 1968-1969, Ch. 32 as amended, S. 27 (2).
- <sup>3</sup> M. G. McQuaid, "Further Development in the Jurisprudence of Market Value as Applied to Assessment", *Aspects* #10 (Winter, 1973) p. 3 ff.
- <sup>4</sup> *Office Specialty Ltd. and the Assessment Commissioner of the York Assessment Office*.
- <sup>5</sup> The first appeal court is the Assessment Review Court, the second is a hearing before a County Court Judge. From the County Court Judge an appeal may be made to the Ontario Municipal Board, at which new evidence may be introduced. Appeal from the Board hearing can only be on points of law.
- <sup>6</sup> Two different Assessment Acts applied to the two cases, the former requiring assessment to be at "actual value", the latter at "market value". The Ontario Municipal Board had decided that these two were synonymous, and arguments and objections on this decision were presented at the Court of Appeal and Supreme Court of Canada. However, at present, assessment is under the "market value" requirement. Therefore, in my opinion, the discussion which took place on these two terms is not relevant here. Neither is it, in my opinion, a crucial argument in the progress of this case.
- <sup>7</sup> Charles Verbatim Reporting transcript of the O.M.B. hearing, pp. 64-65.
- <sup>8</sup> *Ibid.*, p. 72.
- <sup>9</sup> *Montreal v. Sun Life Assurance Co. of Canada* (1952) 2 DLR 81,90.

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## New vistas for the assessor, tax shift and enumeration changes

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Mr. Meen has been Minister of Revenue since February, 1974. Prior to that time, he was Parliamentary Assistant to the Treasurer of Ontario. His educational background is in engineering and law. Mr. Meen is currently the MPP for the riding of York East. [Ed.]

**Aspects:** *In the Ontario Government, taxation policy emanates from the Ministry of Treasury, Economics and Intergovernmental Affairs, while the administration of those policies is the function of the Ministry of Revenue. You are in the rather unique position of having worked in both of these Ministries. Do you support this division of responsibilities or do you feel it causes undue problems and difficulties — particularly for the Ministry of Revenue?*

**Mr. Meen:** *While there is merit in having everything under one roof, it has been necessary to divide up the responsibility for policy-making on the one hand, and administration on the other, simply because both areas are too large and complex to be handled as one function, under one Minister's jurisdiction.*

*The Province of Quebec has also found it necessary to separate the policy-making and administration functions for this reason, and it is quite probable that other provinces may do so in the future. I understand that the Minister of Revenue in Quebec is a pretty busy man, too.*

*However, this system obviously has its potential weaknesses. With the policy-making function in TEIA and the administration in Revenue, a good deal of close liaison is required between the Ministries. I think our communications network has operated very well over the years, but continued effort is required on both sides to ensure that information flows efficiently and smoothly at all times.*

**Aspects:** *What goals and objectives have you set for yourself as Minister of Revenue?*

**Mr. Meen:** *Since this is my first Ministry, the goals I have set for myself are of a fairly general nature. There are certainly a lot of things to learn as a neophyte Cabinet Minister! Coming into this Ministry, I think it is fair to say that I didn't know too much about the various aspects of the Ministry, particularly the assessment function. I had had more encounters with the Revenue Division of the Ministry when I was practising law because I was dealing with corporation taxes, succession duties, retail sales tax, and so on. But I hadn't really encountered the assessment end of things, except in my earlier role as Parliamentary Assistant in TEIA when The Municipal Elections Act was introduced. So I suppose, in a general sense, one of my major personal goals has been to learn about all aspects of the Ministry, and then to determine whether there were some areas in which improvements could be made. I can't really say that I have found very many areas for improvement because most programs in the Ministry are operating quite smoothly.*

**Aspects:** *Do you foresee any significant organizational changes taking place within the Ministry in the near future?*

**Mr. Meen:** *An organizational study on the "support services" of the Ministry has recently been completed. The resulting recommendations were approved by Management Board and are currently being implemented. The Financial and Administrative Services Branches are now integrated, and a Policy and Planning Office has been established. That Office will be responsible for long-range planning, including financial planning, for the Ministry and for coordinating the implementation of the support services study recommendations in the Branches. The role of the Revenue Research*

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### The Honourable Arthur K. Meen Minister of Revenue



*Branch is also being expanded. As yet, the recommendations have not been fully implemented; but when they are, I feel that the operations of the Ministry will function more efficiently.*

**Aspects:** *What effect is the completion of the reassessment likely to have on the functions of the Assessment Division? What can the assessor expect career-wise after 1976?*

**Mr. Meen:** *I don't think we can say at this moment what effect the completion of the reassessment may have on the Assessment Division as a whole. We'll have to await the completion and see where we should go from there.*

*Concerning the careers of assessors, I can safely say that their work will be more varied and interesting than it has been over the past few years. Since 1970, when assessment was transferred to the Province, we have directed all our resources to discovering and valuing properties that were previously not on the rolls, as well as updating assessments on properties to market value. When we made the decision to create the Valuation File, we had masses of clerical work to do in converting the information from appraisal cards to computer. Once the reassessment is complete and reassessed values have been introduced across the province, assessors will be able to retrieve listings of comparable properties from the computer to aid them in doing sales analysis and testing the accuracy of their assessments, etc. They will also be moving from specialized functions to more general functions where they will gain experience in valuing all types of properties. Undoubtedly, the assessor's work will be more interesting and challenging once the reassessment work is complete.*

**Aspects:** *As reassessment approaches completion, what will be done to inform the public at large of the goals of the*

*market value program? Has a full-scale public information campaign been planned?*

**Mr. Meen:** *In areas like the District of Muskoka and Parry Sound, where reassessed rolls were returned early, "open houses" were held where the public was invited to discuss reassessed values with the Regional Assessment Commissioner. Reports were written by these Commissioners on the open house sessions, in which they stated that they were very successful.*

*We recognize there will be a need to establish information programs to explain the reassessment work. One of the problems that has emerged in the reassessed areas, both through the types of questions asked by ratepayers and through the complaints at the Assessment Review Court, is that there is still a misunderstanding on the part of the public as to the distinction between assessment on the one hand and taxation on the other. We intend to set up information services to discuss the program and to correct any misunderstanding by the public that they will be treated unfairly when reassessed values are introduced. As I said, the open house sessions have proved very successful to date and we intend to have them across the province.*

*We have not yet made a final decision as to whether we will have a province-wide information program, whether we will produce written material for distribution as we do for enumeration, or whether the open houses will be sufficient in themselves. This decision will, however, be finalized before the reassessed values are introduced across the province in 1976.*

**Aspects:** *It is very likely that tax shifts will occur among various property classes due to the market value reassessment. What provisions will be made to deal with these shifts?*

**Mr. Meen:** Before we can make any provisions to deal with tax shifts, we have to determine their probable nature and extent. And this is what the tax shift study, now being carried out, is going to establish within the next year or so. Then we will be in a better position to decide on a course of action. For example, we already know that in some municipalities, there could be a fairly substantial shift in the tax burden from commercial and industrial properties to residential properties. What we don't know as yet is how extensive the shifts could be and what the proper action should be in order to prevent this from occurring. No decision has been made so far as to whether we will have a split mill rate, different factors to be applied to the assessments, or some other method.

There is also, of course, the problem of tax shifts within certain classes of property, particularly in certain residential areas. Older residential areas are currently bearing a much smaller part of the residential tax burden than newer neighbourhoods in the same community. It is going to be necessary for us to determine a policy whereby the tax burden is shifted gradually, perhaps over a period of years. But for now, we must await the results of the tax shift study.

**Aspects:** There has been periodic speculation that the assessment function may be returned to the municipalities after the reassessment program is introduced. Could you please comment on this possibility?

**Mr. Meen:** Yes, that question has been raised occasionally. When I was asked last summer, I replied that the issue would be reviewed when the reassessment program had been completed. And we'll certainly review it. But my response was widely quoted by members of the Provincial Municipal Liaison Committee, and I received dozens of resolutions from municipalities around the province telling me in no uncertain terms that they do not want the assessment function back. I would expect that this will be the consensus after reassessment as well.

I realize that back in 1970, when the Province assumed the assessment function, many assessors were less than enthused at the prospect of becoming provincial civil servants, but I suspect that today the majority are reasonably satisfied and would like to stay with the province. However, as I said, we will look into the matter in 1976 or 1977, and decide on the basis of opinion among municipalities at that time.

**Aspects:** When you were interviewed in Aspects #8 (Summer, 1972) The Municipal Elections Act had just been passed, and among its provisions was the change from a spring enumeration carried out over several months, to a one-month fall enumeration. In retrospect, how do you view this change? On the whole, has it been a beneficial one?

**Mr. Meen:** Yes, I think it has been beneficial. The most noticeable improvement has been in the matter of enumerating tenants, inasmuch as there is always a relatively frequent turnover of tenants from one address to another. If you do an enumeration that is spread over a period of months, you may very well miss some of these people altogether, while you are likely to pick up other people two or

three times. So I think that doing the enumeration in a "blitz" kind of approach comes closer to getting everybody just once.

The difficulty, of course, is finding the right time of year to do that. When we do it in September, for example, we run the risk of not picking up a lot of university students who are on the way back to school. But each month of the year poses similar problems regarding some sector of the population, so we have to live with the difficulties as best we can. By and large, I feel that the "blitz" approach to enumeration is the best and has, in fact, worked out well in Ontario.

**Aspects:** Are there any further changes contemplated in either the present enumeration system or the present system of municipal elections?

**Mr. Meen:** I believe the Treasurer is presently looking at the entire question of fall elections, and at whether the suggestions that have been made for changing the present date from the first Monday of December are feasible. If you advance that date to sometime earlier in the fall, there are numerous implications. For example, at present the fiscal year for municipalities starts January 1st, and new council members elected in December take office in the new year. If elections were changed to September, new members would not be able to take office for four months, unless the municipal fiscal year were changed. Furthermore, if elections were changed so that they took place in September rather than December, then the enumeration would have to be conducted during the summer vacation months. This would make it difficult to hire enough enumerators, as well as to find people at home. So we might then be forced to do the enumeration in late spring, and this would probably mean that the voters' lists would be out of date by the election. So the problems involved are certainly complex and numerous.

But in any event, I understand that TEIA is taking a look at the implications of an alteration in the election date, as I mentioned earlier.

**Aspects:** The land speculation tax has been one of the most interesting legislative developments of the past year. Are you satisfied with this legislation as it now stands or do you foresee significant additional changes?

**Mr. Meen:** Undeniably, the original legislation required certain changes. We discovered that very quickly! But I think it has been refined so that now its application is quite fair. I have repeatedly said that if the Act becomes unnecessary in the future — in other words, if we cease to experience upward pressures on real estate prices through speculative activity and if realty values level off — then we will consider repealing or suspending the Act.

However, with its various amendments and refinements, combined with the experience and familiarity which real estate and legal firms have gained in dealing with the Act, I think it is working well and not causing hardship. The business community seems to have accepted the Act and Regulations as a necessary part of business, and I must say they have been most cooperative with us in bringing it to its present state of refinement. □

# The application of multiple regression analysis on apartment properties\*

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Multiple Regression Analysis (MRA) has become an extremely useful tool in single-family residential mass appraisal systems. The increased volume of appraisals, and the reduced dispersions, indicate that MRA is quite suitable for single-family properties. Advanced statistical techniques have also been tried on multiple family residential properties with encouraging results. For this reason, San Mateo County is developing a computer assisted apartment appraisal system using regression analysis and other statistical techniques in order to estimate market value.

## Reviewing the assumptions

When MRA is used on sold properties to estimate the market value of unsold properties, a model of the following form is used:

$$Y = \beta_0 + \beta_1 X_1 + \beta_2 X_2 + \dots + \beta_n X_n + \epsilon$$

The dependent variable (Y) represents sale price, and the independent variables ( $X_1, \dots, X_n$ ) represent property characteristics. This model assumes a *linear* relationship between the dependent variable and the independent variables. The error term ( $\epsilon$ ) is assumed to have a *normal* distribution

with a *constant* variance. The independent variables are assumed to be *uncorrelated* to facilitate the computation of the coefficients ( $\beta_0, \beta_1, \dots, \beta_n$ ).

The restrictions mentioned are not so rigid that an analysis cannot be made whenever one of the assumptions has been slightly violated. However, gross violations of the assumptions would seriously injure model validity and performance.

## Developing a model

The variables for a multiple regression analysis should be selected and coded with the MRA assumptions in mind. For instance, the constant variance restriction can be satisfied when the sample of properties being analyzed is sufficiently homogeneous. Also, the assumption of a normal error term can usually be achieved by rejecting outliers.<sup>1</sup>

The 4200 apartment properties in San Mateo County are heterogeneous in nature, with the number of units in each property ranging from 4 to over 1000. If a multiple regression model were developed to predict market value for these properties, the constant variance assumption would be violated because the value range of a very large apartment complex would be much larger than the value range of a four-unit property. For this reason, the MRA model chosen for apartments predicts the market value per unit of each property, which results in a more homogeneous data sample. Since market value per unit is estimated in the regression model, property characteristics such as income, total living area, number of bedrooms, number of baths, etc. are also coded on a per unit basis.

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\*Acknowledgments: The development of an apartment system in San Mateo County would not have been possible without the enthusiastic participation of several county employees and the Assessor, Jack H. Estes. Roland E. Giannini, J. Fred Andersen, Fred L. Jung, and Harlan J. Schoennauer are a few of the employees of San Mateo County that deserve credit for their involvement in the project. The advice of Robert H. Gustafson of the California State Board of Equalization was also very helpful.

When using MRA on single-family residences, there are usually enough properties in a given neighbourhood to perform an analysis. However, there are not enough apartment properties in any neighbourhood in San Mateo County to perform a regression analysis with properties from one neighbourhood alone. As a result, apartments from different neighbourhoods have to be used in the same model, and a variable is needed to describe the locational amenities of each apartment property. A variable called desirability is being used for this purpose with a scale from one (least desirable location) to five (most desirable location). This variable helps the model predict value when properties from nearby neighbourhoods are combined.

Since the multiple regression algorithm requires complete data, all property characteristics (independent vari-

ables) must be captured for all properties. This can be accomplished without too much difficulty when only land and building characteristics are involved. However, if income is desired as an independent variable in the model, then every property used with the model will need a value for current income. Since it is very difficult to obtain current income for all properties that need an estimate of market value, some method of estimating income is necessary in order to obtain complete data. MRA can be used to develop a "normalized rent" much like the appraiser does when he uses a gross income multiplier approach. A model for estimating income for each type of apartment unit based upon the characteristics of the unit is now being used in San Mateo County in order to complete the income data. Actual income is used on properties when it is available and close to

Table 1  
Variables Used in the Stepwise Multiple Regression Program

| Number | Acronym | Coding        | Description                              |
|--------|---------|---------------|------------------------------------------|
| 1      | MONTHS  | Actual number | Number of months since sale              |
| 2      | SF-ACT  | Per unit      | Square feet of land                      |
| 3      | NUSNS   | 0 or 1        | Nuisance influence                       |
| 4      | EX-TRF  | 0 or 1        | Excess traffic                           |
| 5      | VIEW    | 0 or 1        | View property                            |
| 6      | DESIRE  | 1 thru 5      | Desirability rating                      |
| 7      | DES-02  | 0 or 1        | Desirability 2                           |
| 8      | DES-04  | 0 or 1        | Desirability 4                           |
| 9      | DES-05  | 0 or 1        | Desirability 5                           |
| 10     | NBD-03  | 0 or 1        | Neighborhood 3                           |
| 11     | NBD-04  | 0 or 1        | Neighborhood 4                           |
| 12     | NBD-05  | 0 or 1        | Neighborhood 5                           |
| 13     | NBD-08  | 0 or 1        | Neighborhood 8                           |
| 14     | NBD-09  | 0 or 1        | Neighborhood 9                           |
| 15     | NBD-11  | 0 or 1        | Neighborhood 11                          |
| 16     | NBD-12  | 0 or 1        | Neighborhood 12                          |
| 17     | NBD-13  | 0 or 1        | Neighborhood 13                          |
| 18     | NBD-14  | 0 or 1        | Neighborhood 14                          |
| 19     | SHOP-P  | 0 or 1        | Nearest shopping over 3/4 mile away      |
| 20     | SHOP-G  | 0 or 1        | Nearest shopping under 1/4 mile away     |
| 21     | TRNS-P  | 0 or 1        | Poor access to transportation            |
| 22     | TRNS-G  | 0 or 1        | Good access to transportation            |
| 23     | YR-BLT  | Year-1900     | Year improvements were built             |
| 24     | EFF-YR  | Year-1900     | Effective year of improvements           |
| 25     | QC-GD   | 0 or 1        | Good construction quality class          |
| 26     | QC-AV+  | 0 or 1        | Above average construction quality class |
| 27     | QC-AV-  | 0 or 1        | Below average construction quality class |
| 28     | #UNITS  | Actual number | Number of living units                   |
| 29     | UN-4    | 0 or 1        | Four unit properties                     |
| 30     | UN-5-7  | 0 or 1        | Five to seven units                      |
| 31     | UN-12+  | 0 or 1        | Twelve to twenty-four units              |
| 32     | UN-25+  | 0 or 1        | Over twenty-five units                   |
| 33     | TOT-SF  | Per unit      | Total square feet of living area         |
| 34     | BDRMS   | Per unit      | Total number of bedrooms                 |
| 35     | TOT-RM  | Per unit      | Total number of rooms                    |
| 36     | BATHS   | Per unit      | Total number of baths                    |
| 37     | T-STAL  | Per unit      | Total parking stalls                     |
| 38     | BILT-F  | 0 or 1        | Minimum built-in appliances              |
| 39     | BILT-A  | 0 or 1        | Built-ins include dishwashers            |
| 40     | POOL    | 0 or 1        | Swimming pool                            |
| 41     | iNCOME  | Per unit      | Total monthly income                     |

the normalized income. The remaining apartment properties are given the normalized income.

Figures 1, 2, and 3 in the appendix illustrate the source documents used to input the property characteristics, sales data, and income and expense information. All of the information for any given apartment property is stored together in one data record on magnetic tape.

Results of a Pilot Study

An apartment multiple regression model was tested in San Mateo County including 165 properties that sold during the years 1972 and 1973. The 41 variables available to the regression program were selected from 160 variables that were originally captured. The variables are listed in

Table I and represent most of the value influences that were considered to be potentially important. Actual income at the time of sale was available on all of the properties in this sample, so normalized income was not used in this case. The sample included properties from 4 units to 33 units, and the variables were coded in order to predict sale price per unit.

A stepwise multiple regression computer program was used to develop an equation using an F level of 4.0 to enter and remove variables. In 15 steps an equation with 11 variables was selected. (See Table II.) Income, number of units, desirability, and effective year appear to be the most important value influences. Table III shows the results when the variable "income" was not allowed to enter the regression equation. The increase in dispersion when income is not

Table 2  
Accepted Regression Equation with  
Income as an Independent Variable

| Variable                              | Regression Coefficient | Partial F-Test |
|---------------------------------------|------------------------|----------------|
| DESIRE 150 01                         | 1184.780               | 30.6           |
| NBD-04 151 03                         | 1388.882               | 9.7            |
| NBD-11 151 08                         | 1429.778               | 7.8            |
| NBD-14 151 11                         | 1650.430               | 7.1            |
| TRNS-P 162 01                         | — 986.958              | 5.8            |
| EFF-YR 205                            | 73.560                 | 15.0           |
| QC-AV-208 05                          | — 1416.627             | 10.2           |
| UN-4 246 02                           | 2227.144               | 44.3           |
| UN-5-7 246 03                         | 1243.990               | 17.3           |
| BATHS 255                             | 2134.777               | 8.2            |
| INCOME 425                            | 84.391                 | 241.7          |
| Regression Constant — 9327.8          |                        |                |
| Adjusted R Squared 0.900              |                        |                |
| Standard Error of the Estimate 1507.0 |                        |                |
| Coefficient of Dispersion 7.2         |                        |                |
| (average % miss)                      |                        |                |
| Number of Sold Properties 165         |                        |                |

Table 3  
Accepted Regression Equation without  
Income as an Independent Variable

| Variable                       | Regression Coefficient | Partial F-Test |
|--------------------------------|------------------------|----------------|
| DESIRE 150 01                  | 1395.677               | 27.9           |
| NBD-03 151 02                  | — 2366.329             | 9.7            |
| NBD-05 151 04                  | — 1551.786             | 4.7            |
| NBD-09 151 06                  | — 1672.802             | 15.8           |
| EFF-YR 205                     | 145.467                | 49.7           |
| QC-GD 208 02                   | 2325.304               | 9.5            |
| UN-12+ 246 04                  | — 1739.388             | 12.5           |
| TOT-SF 246 06                  | 12.191                 | 93.7           |
| BATHS 255                      | 3984.846               | 21.0           |
| Regression Constant            |                        | — 9087.7       |
| Adjusted R Squared             |                        | 0.8333         |
| Standard Error of the Estimate |                        | 1949.2         |
| Coefficient of Dispersion      |                        | 8.8            |
| (average % miss)               |                        |                |
| Number of Sold Properties      |                        | 165            |

Table 4  
The Display of Estimates with the Regression Estimate  
Using Income as an Independent Variable

| Estimate | Coefficient of Dispersion | Standard Error | Weight | Degrees of Freedom |
|----------|---------------------------|----------------|--------|--------------------|
| GIM      | 7.9                       | 1727.2         | 0.375  | 157                |
| NIM      | 8.1                       | 1781.5         |        | 158                |
| OCPR     | 7.8                       | 1731.0         |        | 156                |
| *CAF     | 7.4                       | 1939.6         |        | 146                |
| \$/SF    | 11.5                      | 2561.7         |        | 151                |
| UNIT     | 15.6                      | 3612.3         | 0.625  | 153                |
| *REG     | 7.2                       | 1507.0         |        | 153                |
| COMP     | 5.8                       | 1160.2         |        | 134                |

\* These estimates are included in the composite estimate.

available indicates that income information is critical, and that the cost of capturing this information is justified.

The equations from Table II and Table III contain the same value influences, such as desirability, location, age, quality, number of units, and bathrooms, even though the same specific variables were not chosen in each case. All of the variable co-efficients from both equations were in the expected directions. For example, there was a positive coefficient for the variable representing effective year and a negative coefficient for the variable representing poor access to transportation. It is interesting to note that the date of sale and the presence of a swimming pool or view did not appear to be important in either case.

### Other estimates of Market Value

With income and expense information available on sold properties, several other estimates of market value could be computed. Either actual or normalized income is available on all apartments, and the expenses of all apartment properties can also be estimated. Using information from questionnaires, "standardized expenses" can be determined for apartments based upon desirability, age, size, and design type, and these expenses could be expressed as a percent of gross income. MRA could be used to normalize expenses, but the expense information returned after mailing questionnaires is seldom complete, and it appears to be less appropriate for a regression analysis than does income information.

With normalized income and standardized expenses on *all* apartment properties, six estimates of value are computed independently of the regression estimate. These estimates are based upon gross income multipliers (GIM), net income multipliers (NIM), sale price per unit (UNIT), sale price per rentable square foot (\$/SF), and two capitalization techniques. All of the estimates are developed from sold properties of comparable age, size, type, and desirability. Finally, these six estimates are analyzed with the regression estimate in order to compute a composite estimate that is a weighted average of some of the seven estimates.<sup>2</sup> The composite estimate has a coefficient of dispersion that is equal to or less than the coefficients of dispersion of the other estimates and incorporates all of the important information in the analysis.<sup>3</sup>

Table IV displays the average percent miss, the standard error, and the degrees of freedom for each estimate. The overall capitalization-property residual (OCPR) method and the capitalization of available financing (CAF) method are

both outlined in Figure 1B of the appendix. Table V displays the same estimates and results using the regression estimate that did not use income as an independent variable.

It was possible to combine estimates into a superior composite estimate with or without income as an independent variable in the regression equation. However, the best composite estimate was developed when income was used as an independent variable in the regression model.

### Reports

After the property characteristics, sales data, and income and expense information have been captured, many different reports can be produced to help the appraiser. In San Mateo County, several different report programs are planned to help analyze sales, rent, expenses, financing, interest rates and vacancies. For instance, the Market Data Analysis report (see Figure 4 in the appendix) lists the recently sold apartments by neighbourhood and by size (number of units). The same report also computes sales ratios by neighbourhood and size. The Market Data Analysis program is designed to help the appraiser select comparable sales in order to support an appraisal.

Another important report is output by the Worksheet program.<sup>4</sup> This report displays the property characteristics, sales history, and income information for all properties when they are reappraised. The previous appraised value and all of the estimates are also printed out for each property in this report. With the Market Data Analysis report and the Worksheet report, the appraiser should have enough information to arrive at a final conclusion of value for each property to be reappraised.

### Conclusions

The apartment appraisal system being developed by San Mateo County is more advanced than the single-family appraisal system because of the complications involved with processing income and the need for more reports. The original development cost of the apartment system is relatively high, but the operating costs are reasonable due to the fewer properties involved.

The results from the multiple regression estimates and the composite estimates indicate that the use of statistical techniques on apartment properties can be quite successful, especially when further improvements are implemented. In San Mateo County, apartment properties will be stratified

Table 5  
The Display of Estimates with the Regression Estimate  
Using Property Characteristics Only

| Estimate | Coefficient of Dispersion | Standard Error | Weight | Degrees of Freedom |
|----------|---------------------------|----------------|--------|--------------------|
| *GIM     | 7.9                       | 1727.2         | 0.558  | 157                |
| NIM      | 8.1                       | 1781.5         |        | 158                |
| OCPR     | 7.8                       | 1731.0         |        | 156                |
| *CAF     | 7.4                       | 1939.6         | 0.442  | 146                |
| \$/SF    | 11.5                      | 2561.7         |        | 151                |
| UNIT     | 15.6                      | 3612.3         |        | 153                |
| REG      | 8.8                       | 1949.2         |        | 155                |
| COMP     | 6.1                       | 1299.6         |        | 138                |

\* These estimates are included in the composite estimate.

into more homogeneous areas, and nonlinear and interaction terms will be specified in order to improve the regression analysis and reduce the dispersion.

Finally, one of the most important ingredients of a successful mass appraisal system is appraiser acceptance. The appraisers should be involved in the development of the system to help select variables, design input documents, and approve report formats. The system should be designed to satisfy the appraiser's needs, and it should be clear that the computer is working for the appraiser — instead of the appraiser working for the computer. □

APPENDIX. FIGURE 1A (Side 1).  
Source Document for Land Characteristics.

|                                                                                            |        |                                   |  |                                 |  |
|--------------------------------------------------------------------------------------------|--------|-----------------------------------|--|---------------------------------|--|
| MULTIPLE RESIDENTIAL APPRAISAL RECORD<br>ASSESSOR'S OFFICE<br>SAN MATEO COUNTY, CALIFORNIA |        |                                   |  | SIDE 1 OF<br>FIELD INSPECT DATE |  |
| 23-HISTORICAL COST                                                                         |        | 23-LAND VALUE COMPUTATIONS        |  | LAND ATTRIBUTES                 |  |
| COST YEAR                                                                                  |        | BASIC LOT VALUE \$                |  | 101 ZONING                      |  |
| TREND FACTOR                                                                               | %      | ADJUSTMENTS \$                    |  | 102 UNITS ALLOWED               |  |
| PERCENT GOOD                                                                               | %      | (B REASONS)                       |  | 103 PARKING RATIO               |  |
| ADJUSTED COST                                                                              | \$     | ADJUSTED LOT VALUE \$             |  | 104 WIDTH                       |  |
|                                                                                            |        | (PER SQ. FT. \$ & PER UNITS)      |  | 105 DEPTH                       |  |
|                                                                                            |        |                                   |  | 106 ACRES                       |  |
|                                                                                            |        |                                   |  | 107 SQ. FT. ACTUAL              |  |
|                                                                                            |        |                                   |  | 108 SQ. FT. USABLE              |  |
|                                                                                            |        |                                   |  | 109 EGRESS LAND                 |  |
|                                                                                            |        |                                   |  | 110 LOT USABILITY               |  |
|                                                                                            |        |                                   |  | 111 TRIANGULAR                  |  |
|                                                                                            |        |                                   |  | 112 CUL-DE-SAC                  |  |
|                                                                                            |        |                                   |  | 113 CORNER                      |  |
|                                                                                            |        |                                   |  | 114 NON-ST. FRONT               |  |
|                                                                                            |        |                                   |  | 115 WATER FRONT                 |  |
|                                                                                            |        |                                   |  | 116 DOCKING RIGHTS              |  |
|                                                                                            |        |                                   |  | 117 NUISANCE INFLUENCE          |  |
|                                                                                            |        |                                   |  | 118 EXCESSIVE TRAFFIC           |  |
| 24-MARKET APPROACH                                                                         |        | 25-INCOME ANALYSIS                |  | TOPOGRAPHY                      |  |
| POSITIVE INCOME \$                                                                         |        | NUMBER OF ROOMS                   |  | 126 GRADE                       |  |
| 1 W. \$                                                                                    |        | 5 PER ROOM \$                     |  | 127 CONTOUR                     |  |
| INDICATED VALUE \$                                                                         |        | INDICATED VALUE \$                |  | 128 SLOPE                       |  |
|                                                                                            |        |                                   |  |                                 |  |
| NUMBER OF UNITS                                                                            |        | GROSS NET BLDG. AREA              |  | TOTAL PROPERTY                  |  |
| PER UNIT                                                                                   |        | 3 PER SQ. FT. \$                  |  | 131 VACANT                      |  |
| INDICATED VALUE \$                                                                         |        | INDICATED VALUE \$                |  | 132 ZONING CONFORMITY           |  |
|                                                                                            |        |                                   |  | 133 UNIT CONFORMITY             |  |
|                                                                                            |        |                                   |  | 134 MISLOCATED IMP.             |  |
|                                                                                            |        |                                   |  | 135 HIGHEST & BEST USE          |  |
|                                                                                            |        |                                   |  | 136 VIEW                        |  |
|                                                                                            |        |                                   |  | 137 VIEW QUALITY                |  |
|                                                                                            |        |                                   |  | 138 VIEW UTILIZED               |  |
|                                                                                            |        |                                   |  | 139 ARCHITECTURE                |  |
|                                                                                            |        |                                   |  | 140 COMMON GREEN                |  |
|                                                                                            |        |                                   |  | 141 COMMON REC.                 |  |
|                                                                                            |        |                                   |  | 142 COMMON DRIVE                |  |
|                                                                                            |        |                                   |  | 143 EASEMENTS                   |  |
|                                                                                            |        |                                   |  | 144 TENANT PARKING              |  |
|                                                                                            |        |                                   |  | 145 GUEST PARKING               |  |
| 26-EXPENSE ANALYSIS                                                                        |        | 27-INCOME APPROACHES              |  | NEIGHBORHOOD                    |  |
| ITEM                                                                                       | AMOUNT | STRAIGHT LINE - BUILDING RESIDUAL |  | 151 NEIGHBORHOOD NO.            |  |
| INSURANCE                                                                                  | \$     | NET INCOME (FROM ABOVE)           |  | 152 SINGLE FAMILY               |  |
| MANAGEMENT                                                                                 | \$     | EXPENSES %                        |  | 153 MULTIFAMILY                 |  |
| UTILITIES                                                                                  | \$     | NET INCOME TO PROPERTY            |  | 154 LIMITED                     |  |
| SUPPLIES                                                                                   | \$     | LAND CHARGES (INTR. TAXES)        |  | 155 COMMERCIAL                  |  |
| SERVICES                                                                                   | \$     | LAND VALUE \$                     |  | 156 INDUSTRIAL                  |  |
| MAINT. & REPAIR                                                                            | \$     | NET INCOME IMPUTABLE TO BLDG.     |  | 157 TREND                       |  |
| OTHER                                                                                      | \$     | CAPITALIZATION RATE               |  | 158 PLANNING                    |  |
|                                                                                            |        | INTR. DEPR. TAXES %               |  | 159 MARKET DEMAND               |  |
|                                                                                            |        | IMP. VALUE - NET INC. \$          |  | 160 PUBLIC SERVICE              |  |
|                                                                                            |        | ROUNDED IMPROVEMENT VALUE         |  | 161 PROX. TO SHOPPING           |  |
|                                                                                            |        | LAND VALUE \$                     |  | 162 PROX. TO TRANS.             |  |
|                                                                                            |        | TOTAL PROPERTY VALUE              |  |                                 |  |
| 28-OVERALL CAPITALIZATION - PROPERTY RESIDUAL                                              |        | COST APPROACH EST.                |  | VALUE CONCLUSIONS               |  |
| NET INCOME (FROM ABOVE)                                                                    | \$     | 171 BLDGS.                        |  | 181 TOTAL PROP. VAL. \$         |  |
| OVERALL RATE (FIELD)                                                                       | %      | 172 WSP. STR.                     |  | 182 LAND VAL. \$                |  |
| INCOME VALUE - NET INC. \$                                                                 | \$     | 173 SITE IMP.                     |  | 183 IMP. VAL. \$                |  |
| ROUNDED TOTAL PROPERTY VALUE                                                               | \$     | 174 POOL                          |  | 184 EMPLOYEE NO.                |  |
|                                                                                            |        | 175 GAR. DET.                     |  | 185 APPRAISAL DATE              |  |
|                                                                                            |        | 176 TOTAL                         |  | 186 APPROACH USED               |  |
|                                                                                            |        | 177 COST YEAR                     |  | 187 TEMP. VALUE                 |  |
|                                                                                            |        |                                   |  |                                 |  |
| CAPITALIZATION OF AVAILABLE FINANCING                                                      |        | APPROPRIATE FOR                   |  |                                 |  |
| CASH DOWN %                                                                                |        |                                   |  |                                 |  |
| 1st D.T. % INTR.                                                                           |        |                                   |  |                                 |  |
| 2nd D.T. % INTR.                                                                           |        |                                   |  |                                 |  |
| 3rd D.T. % INTR.                                                                           |        |                                   |  |                                 |  |
| 4th D.T. % INTR.                                                                           |        |                                   |  |                                 |  |
| 5th D.T. % INTR.                                                                           |        |                                   |  |                                 |  |
| 6th D.T. % INTR.                                                                           |        |                                   |  |                                 |  |
| 7th D.T. % INTR.                                                                           |        |                                   |  |                                 |  |
| 8th D.T. % INTR.                                                                           |        |                                   |  |                                 |  |
| 9th D.T. % INTR.                                                                           |        |                                   |  |                                 |  |
| 10th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 11th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 12th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 13th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 14th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 15th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 16th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 17th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 18th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 19th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 20th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 21st D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 22nd D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 23rd D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 24th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 25th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 26th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 27th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 28th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 29th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 30th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 31st D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 32nd D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 33rd D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 34th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 35th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 36th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 37th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 38th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 39th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 40th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 41st D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 42nd D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 43rd D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 44th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 45th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 46th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 47th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 48th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 49th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 50th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 51st D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 52nd D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 53rd D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 54th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 55th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 56th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 57th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 58th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 59th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 60th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 61st D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 62nd D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 63rd D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 64th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 65th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 66th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 67th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 68th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 69th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 70th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 71st D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 72nd D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 73rd D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 74th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 75th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 76th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 77th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 78th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 79th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 80th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 81st D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 82nd D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 83rd D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 84th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 85th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 86th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 87th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 88th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 89th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 90th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 91st D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 92nd D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 93rd D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 94th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 95th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 96th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 97th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 98th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 99th D.T. % INTR.                                                                          |        |                                   |  |                                 |  |
| 100th D.T. % INTR.                                                                         |        |                                   |  |                                 |  |

- FOOTNOTES
- 1 An outlier in this case would be a property with a sale price that is not reasonable given the property description. A good MRA computer program would help identify outliers.
  - 2 Estimates are chosen to be included in the composite estimate until the standard error is minimized, using decision theory techniques described in Bierman, Bonini and Hausman, *Quantitative Analysis for Business Decisions*, pp. 121-130.
  - 3 Adjustments taking into account degrees of freedom are necessary when estimating the accuracy of the composite estimate.
  - 4 The Worksheet Program was being developed at print time.

APPENDIX. FIGURE 1B (Side 2).  
Source Document for Improvement Characteristics.

|                                          |                      |                       |              |
|------------------------------------------|----------------------|-----------------------|--------------|
| ADDRESS                                  |                      | TRACT                 |              |
| CITY                                     |                      | ACREAGE               |              |
| LOT                                      |                      | OWNER                 |              |
| BLK                                      |                      |                       |              |
| 1-TOTAL PROPERTY SUMMARY                 |                      |                       |              |
| Assessment Year                          | 19                   | 19                    | 19           |
| Appraiser                                |                      |                       |              |
| Date                                     |                      |                       |              |
| Improvement Value                        |                      |                       |              |
| Land Value                               |                      |                       |              |
| Total Property Value                     |                      |                       |              |
| Approach Used                            |                      |                       |              |
| 2-SALES DATA - SUBJECT PROPERTY          |                      |                       |              |
| Date of Sale                             |                      |                       |              |
| Sales Price                              |                      |                       |              |
| Adjustments (+ or -)                     |                      |                       |              |
| Net Sales Price                          |                      |                       |              |
| DESCRIPTION OF IMPROVEMENTS              |                      |                       |              |
| 3-ARCHITECTURE                           | 9-INTERIOR WALLS     | 15-BATH FINISH        |              |
| Rustic                                   | Sheetrock            | Plastic               |              |
| Plastic                                  | Plastic              | Tile                  |              |
| Paneling                                 | Paneling             | Vanities              |              |
| Modern                                   |                      | Showers               |              |
| Old                                      |                      |                       |              |
| 4-FOUNDATION                             | 10-CEILINGS          | 16-KITCHEN & CABINETS |              |
| Foundation                               | Sheetrock            | Venets                |              |
| Other                                    | Plastic              | Marble                |              |
|                                          | Alcove/Plastic       | Plastic               |              |
| 5-STRUCTURAL                             | Beam & Plastic       |                       |              |
| Steel Frame                              |                      |                       |              |
| Weld Frame                               |                      |                       |              |
| 17-ELECTRICAL                            | 17-APPLIANCES        |                       |              |
| Are Features                             |                      |                       |              |
| Good Features                            |                      |                       |              |
| Conduit                                  |                      |                       |              |
| 18-ROOFING                               | 18-HEAT              |                       |              |
| T&G                                      | F.H.A.               |                       |              |
| Single                                   | Flow                 |                       |              |
| Wave                                     | Hot Water            |                       |              |
| Composition                              | Electric Baseboard   |                       |              |
|                                          | Radiant              |                       |              |
| 7-EXTERIOR WALLS                         | 19-FLOORS            | 18-MISC.              |              |
| Stucco                                   | Carpet               | Fireplace             |              |
| Mastic                                   | Hardwood             | T.V. Antenna          |              |
| Single                                   | Vinyl                | Croquet Blinds        |              |
| Concrete                                 | Line                 | Washers/Dryers        |              |
| in Block                                 | Conc.                | Wet Bar               |              |
|                                          | Terr., Onyx, Etc.    | Gash Chute            |              |
| 8-VENEER TRIM                            | 14-PLUMBING FIXTURES | Spunklers             |              |
| Trim                                     | Quality              | Elevators             |              |
| Rustic                                   | Total Features       | Cable T.V.            |              |
| 19-DESC. REMARKS                         |                      |                       |              |
| 20-MISC. STRUCTURES & GARAGE DESCRIPTION |                      |                       |              |
| Structure                                | Area                 | Fdn                   | Extr.        |
|                                          |                      | Ints                  | Floors       |
|                                          |                      | Plumb                 | Heat         |
| 21-CONSTRUCTION RECORD                   |                      |                       |              |
| Project No.                              | Date                 | Amount                | Description  |
|                                          |                      |                       | Appr. & Date |
| REMARKS                                  |                      |                       |              |
| 276 EXTERIOR APT. ENTRY                  |                      |                       |              |
| 277 INTERIOR HALLS                       |                      |                       |              |
| 278 COMMON LOBBY                         |                      |                       |              |
| 279 ELEVATOR                             |                      |                       |              |
| 280 BUILDINGS (Quantity)                 |                      |                       |              |
| 281 BUILDINGS (Quality)                  |                      |                       |              |
| 282 FIREPLACES (Number)                  |                      |                       |              |
| 283 TENNIS COURT                         |                      |                       |              |
| 284 POOL                                 |                      |                       |              |
| 285 SAUNA                                |                      |                       |              |
| 286 SECURITY SYSTEM                      |                      |                       |              |
| 287 RES. MGR. OR OWNER                   |                      |                       |              |
| 288 DECKS                                |                      |                       |              |
| 289 BALCONIES                            |                      |                       |              |
| 290 PATIOS                               |                      |                       |              |

## APPENDIX. FIGURE 2. Source Document for Sales Data

300 Parcel Number \_\_\_\_\_

EDITED SALES DATA

302 Date of Sale \_\_\_\_\_

303 Total Purchase Price \$ \_\_\_\_\_

304 Down Payment \$ \_\_\_\_\_

Financing Amount Interest Years Remaining

305 1st Trust Deed \$ \_\_\_\_\_ % \_\_\_\_\_

306 2nd Trust Deed \$ \_\_\_\_\_ % \_\_\_\_\_

307 3rd Trust Deed \$ \_\_\_\_\_ % \_\_\_\_\_

308 Other \$ \_\_\_\_\_ % \_\_\_\_\_

309 Cash Equivalent \$ \_\_\_\_\_

310 Edited Gross Income \$ \_\_\_\_\_

311 Variance \$ \_\_\_\_\_

312 Confirmation Code \_\_\_\_\_

313 Editing Appraiser \_\_\_\_\_

Remarks \_\_\_\_\_

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## APPENDIX. FIGURE 3. Source Document for Income and Expense Information

400 Parcel Number \_\_\_\_\_

MULTIPLE RESIDENTIAL PROPERTY  
EDITED INCOME AND EXPENSES

MONTHLY INCOME

| Type | No                   | Av. Rent | Vacant |
|------|----------------------|----------|--------|
| 401  | 5 1                  | \$ _____ | _____  |
| 402  | 1 1                  | \$ _____ | _____  |
| 403  | 2 1                  | \$ _____ | _____  |
| 404  | 2 2                  | \$ _____ | _____  |
| 405  | 1 1 5                | \$ _____ | _____  |
| 406  | 2 1 5                | \$ _____ | _____  |
| 407  | 2 2 5                | \$ _____ | _____  |
| 408  | 3 1                  | \$ _____ | _____  |
| 409  | 3 1 5                | \$ _____ | _____  |
| 410  | 3 2                  | \$ _____ | _____  |
| 411  | 3 2 5                | \$ _____ | _____  |
| 412  | 3 3                  | \$ _____ | _____  |
| 413  | 4 2                  | \$ _____ | _____  |
| 414  | 4 3                  | \$ _____ | _____  |
| 415  | 1 1 DEN              | \$ _____ | _____  |
| 416  | 2 2 DEN              | \$ _____ | _____  |
| 417  | 1 1 DIN RM           | \$ _____ | _____  |
| 418  | 2 2 DIN RM           | \$ _____ | _____  |
| 419  | 3 2 DIN RM           | \$ _____ | _____  |
| 420  | OTHER                | \$ _____ | _____  |
| 421  | Other Monthly Income | \$ _____ | _____  |
| 430  | Date                 | _____    | _____  |
| 431  | Tax Code Area        | _____    | _____  |

432 Rent Adjusted for Utilities? ☐ NO ☐ YES

433 Children under 12? ☐ NO ☐ YES

434 Contract Rent? ☐ NO ☐ YES

435 Furnished Units \_\_\_\_\_

ANNUAL EXPENSES

451 Insurance \$ \_\_\_\_\_

452 Mgmt & Payroll \$ \_\_\_\_\_

453 Utilities \$ \_\_\_\_\_

454 Supplies \$ \_\_\_\_\_

455 Services \$ \_\_\_\_\_

456 Maint & Repairs \$ \_\_\_\_\_

457 Other \$ \_\_\_\_\_

458 Total \$ \_\_\_\_\_

459 Reserves \$ \_\_\_\_\_

460 Property Taxes \$ \_\_\_\_\_

461 Included in Actual Rent (Unadjusted)

Water ☐ No ☐ Yes

Garbage ☐ No ☐ Yes

Parking ☐ No ☐ Yes

Elect ☐ No ☐ Yes

Gas ☐ No ☐ Yes

APPRaiser \_\_\_\_\_

DATE \_\_\_\_\_

REMARKS \_\_\_\_\_

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## APPENDIX. FIGURE 4 Sales Listing from the Market Data Analysis Report.

Note: Addresses and parcel numbers were deleted to protect confidential information.

| RPT-       | MARKET DATA ANALYSIS (APTS) |                     |        |             |        |       |            |           |            |            | DATE | 03/06/75 | PAGE | 5 |
|------------|-----------------------------|---------------------|--------|-------------|--------|-------|------------|-----------|------------|------------|------|----------|------|---|
| PARCEL NO. | NEIGH.                      | ADDRESS             | DATE   | SALE PRICE  | UNITS  | ROOMS | GROSS AREA | NET AREA  | LAND VALUE | SALE RATIO |      |          |      |   |
| USE        | TYPE                        | QUAL. CONO.         | DESIR. | CASH EQUIV. | CE/UN  | CE/RM | CE/SQ.FT.  | CE/SQ.FT. | IMP. VALUE | VACANCY %  |      |          |      |   |
|            |                             |                     |        | GROSS INC.  | GI/UN  | GI/RM | GI/SQ.FT.  | GI/SQ.FT. | TOT. VALUE | LAND RATIO |      |          |      |   |
| 10         | 09A                         | 14 10 1964          | 03-73  | 142,000     | 10     | 34    | 10,722     | 6,670     | 24,600     | 99.5       |      |          |      |   |
| 5          | 6,670                       | NONE AVER NONE NONE | 3      | 142,000     | 14,200 | 4,176 | 13.24      | 21.29     | 116,700    | 9.4        |      |          |      |   |
|            | LR                          | D+ AVER             | 3      | 18,828      | 1,883  | 554   | 1.76       | 2.82      | 141,300    | 17.3       |      |          |      |   |
|            |                             |                     |        | 0           | 157    | 46    | 0.15       | 0.24      |            | 7.5        |      |          |      |   |
| 11         | 09A                         | 11 11 1962          | 03-73  | 170,000     | 11     | 31    | 8,405      | 5,981     | 25,000     | 75.9       |      |          |      |   |
| 5          | 5,981                       | NONE AVER NONE NONE | 9      | 160,000     | 14,545 | 5,161 | 19.04      | 26.75     | 96,500     | 27.8       |      |          |      |   |
|            | LP                          | D+ GOOD             | 3      | 18,780      | 1,707  | 606   | 2.23       | 3.14      | 121,500    | 15.6       |      |          |      |   |
|            |                             |                     |        | 1,583       | 144    | 51    | 0.19       | 0.26      |            | 8.5        |      |          |      |   |
| 11         | 09D                         | 18 11 1960          | 01-73  | 159,000     | 11     | 40    | 11,316     | 9,233     | 38,500     | 100.9      |      |          |      |   |
| 5          | 9,233                       | AVER AVER NONE NONE | 9      | 159,000     | 14,455 | 3,975 | 14.05      | 17.22     | 121,900    | 0.0        |      |          |      |   |
|            | LR                          | DA AVER             | 3      | 21,780      | 1,980  | 545   | 1.92       | 2.36      | 160,400    | 24.2       |      |          |      |   |
|            |                             |                     |        | 1,944       | 177    | 49    | 0.17       | 0.21      |            | 7.3        |      |          |      |   |
| 12         | 09C                         | 19 13 1964          | 06-73  | 190,000     | 12     | 43    | 14,092     | 9,852     | 31,700     | 86.1       |      |          |      |   |
| 5          | 9,852                       | NONE AVER NONE NONE | 3      | 190,000     | 15,833 | 4,419 | 13.48      | 19.29     | 131,800    | 0.0        |      |          |      |   |
|            | LR                          | DA AVER             | 3      | 24,540      | 2,045  | 571   | 1.74       | 2.49      | 163,500    | 16.7       |      |          |      |   |
|            |                             |                     |        | 0           | 170    | 48    | 0.15       | 0.21      |            | 7.7        |      |          |      |   |
| 13         | 09D-2                       | 19 13 1958          | 05-73  | 190,000     | 13     | 45    | 12,683     | 9,587     | 45,500     | 94.5       |      |          |      |   |
| 5          | 9,587                       | NONE AVER NONE NONE | 9      | 181,500     | 13,962 | 4,033 | 14.31      | 18.93     | 126,000    | 7.1        |      |          |      |   |
|            | LP                          | DA AVER             | 3      | 22,944      | 1,765  | 510   | 1.81       | 2.39      | 171,500    | 25.1       |      |          |      |   |
|            |                             |                     |        | 0           | 147    | 42    | 0.15       | 0.20      |            | 7.9        |      |          |      |   |
| 14         | 09A                         | 18 14 1964          | 01-73  | 200,000     | 14     | 46    | 15,796     | 9,416     | 33,600     | 79.8       |      |          |      |   |
| 5          | 9,416                       | NONE AVER NONE NONE | 3      | 200,000     | 14,286 | 4,348 | 12.66      | 21.24     | 125,900    | 21.1       |      |          |      |   |
|            | LP                          | DA AVER             | 3      | 24,960      | 1,783  | 543   | 1.58       | 2.65      | 159,500    | 16.8       |      |          |      |   |
|            |                             |                     |        | 2,134       | 152    | 46    | 0.14       | 0.23      |            | 8.0        |      |          |      |   |
| 22         | 09C                         | 31 22 1961          | 03-73  | 325,000     | 22     | 74    | 19,293     | 16,339    | 70,500     | 82.1       |      |          |      |   |
| 5          | 16,339                      | AVER AVER NONE NONE | 9      | 325,000     | 14,773 | 4,392 | 16.85      | 19.89     | 196,400    | 4.9        |      |          |      |   |
|            | LR                          | DG AVER             | 3      | 43,860      | 1,994  | 593   | 2.27       | 2.68      | 266,900    | 21.7       |      |          |      |   |
|            |                             |                     |        | 3,655       | 166    | 49    | 0.19       | 0.22      |            | 7.4        |      |          |      |   |
| 24         | 09B                         | 26 24 1962          | 02-73  | 277,000     | 24     | 60    | 18,711     | 14,112    | 45,000     | 78.9       |      |          |      |   |
| 5          | 14,112                      | NONE AVER NONE NONE | 9      | 267,000     | 11,125 | 4,450 | 14.27      | 18.92     | 165,700    | 8.2        |      |          |      |   |
|            | LR                          | D+ GOOD             | 3      | 38,640      | 1,610  | 644   | 2.07       | 2.74      | 210,700    | 16.9       |      |          |      |   |
|            |                             |                     |        | 0           | 134    | 54    | 0.17       | 0.23      |            | 6.9        |      |          |      |   |
| 4          | 10D                         | 6 4 1965            | 04-73  | 71,500      | 4      | 14    | 4,042      | 2,638     | 14,000     | 83.9       |      |          |      |   |
|            | 2,638                       | NONE AVER NONE NONE | 3      | 71,500      | 17,875 | 5,107 | 17.69      | 27.10     | 46,000     | 26.4       |      |          |      |   |
|            | LP                          | DA GOOD             | 3      | 8,484       | 2,121  | 606   | 2.10       | 3.22      | 60,000     | 19.6       |      |          |      |   |
|            |                             |                     |        | 707         | 177    | 51    | 0.17       | 0.27      |            | 8.4        |      |          |      |   |

# THE LAND SPECULATION TAX REVISITED: A REVIEW OF THE LEGISLATIVE CHANGES

We would like to thank two individuals in the Succession Duty Branch, Ministry of Revenue, for their assistance in preparing this article. Ms. Eileen Devlin, Assessment Supervisor, and Mr. I. Stephenson, Director, did much of the organization and writing of this paper, and we gratefully acknowledge their time and cooperation. [Ed.]

On April 9, 1974, two important and controversial pieces of legislation were announced by the Treasurer of Ontario in his budget address. Since that time, The Land Speculation Tax Act and The Land Transfer Tax Act have undergone a period of trial and error, with considerable public debate and scrutiny.

From the beginning, the government acknowledged that the legislation as originally introduced would undoubtedly require amendments as time went on. Submissions were received from many individuals and professional groups. Eventually, substantial changes were made to both Acts.

Because these amendments occurred after our initial article on The Land Speculation Tax Act (*Aspects* #15, Summer, 1974), the following is an outline and clarification of the changes which have since taken place.

## The Land Transfer Tax Act

There has been a Land Transfer Tax Act in force in Ontario since 1921, the Act prior to April 9, 1974 being of very short length. The enforcement

and collection of the Act were built around a series of interpretation bulletins and rulings issued over the years. The tax was usually paid quietly and very few, if any, protests were received.

The new Act introduced on April 9, 1974, was a completely new, expansive piece of legislation whose purpose was to help implement the government policy announced by the Treasurer of Ontario. The budget address referred to the large-scale acquisition of land by non-residents of Canada as an increasingly apparent and significant factor contributing to rapidly rising prices for real property. In order to "maximize Canadian ownership of our real estate," the government imposed a tax of 20% of the value of the consideration for a conveyance to or in trust for a non-resident person.

There has, of course, been a controversy surrounding The Land Transfer Tax Act and its companion piece, The Land Speculation Tax Act, since they were first announced. As a result, substantial changes were made to The Land Transfer Tax Act, and these received Royal Assent on December 10, 1974.

Perhaps the most significant changes can be found in Section 16 of the Act. In the Act as originally constituted, partial tax relief against the tax, that would be otherwise imposed at the rate of 20%, could only be granted by the filing of a Regulation under Section 18 of The Land Transfer Tax Act.

Section 16 of the Act, as amended, might be looked upon as having two distinct parts. The grounds for obtaining the partial exemption have been codified and the necessity of exercising ministerial discretion has more or less been removed.

## Tax relief

Subsection 4 of Section 16 deals with certain conveyances to non-resident persons on which the tax is reduced from 20% to the lower rate of tax. The conveyances for which this reduction is available must have attached to them an affidavit of the transferee to whom the conveyance is made, which will state the existence of the conditions entitling the persons tendering the conveyance for registration to a reduction of the 20% tax otherwise imposed by the Act.

There are five forms of affidavit which may be completed with specific reference to subsection 4 of Section 16.

Very briefly, they are relevant to the following situations:

- 1) The transferee has been admitted to Canada for permanent residence or lawfully admitted to Canada for the purpose of engaging in a trade, profession, etc., or here pursuant to an employment visa, and the land being conveyed is being acquired for the purpose of establishing a principal residence.
- 2) The transferee is a Canadian citizen who is acquiring a principal residence

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>or a principal recreational property to be used by him on his return to Canada to take up permanent residence in Canada.</p> <p>3) The transferee, on or after the 9th of April, 1974, has continuously occupied premises in Canada where the transferee carried on an active commercial or industrial business and the land being conveyed to the transferee is being acquired for the purpose of expansion or relocation.</p> <p>4) The transferee is acquiring the land for the subsequent sale of the land to an employee to be used as his residence or for the exclusive use of the employees of the transferee.</p> <p>5) The land is being conveyed to the transferee and is being acquired as a result of a final Order of Foreclosure under a mortgage or charge affecting the land.</p>                                                                                                                                                                                                                                                                                                                                                                                                               | <p><b>Tax deferment</b></p> <p>Subsection 1 of Section 16 may be distinguished and relates to a deferment or remission of the tax by the Minister with the approval of the Lieutenant Governor in Council when certain conditions are met.</p> <p>Transferees may make application for a deferment or remission of the tax under the following circumstances:</p> <ol style="list-style-type: none"> <li>1) Where the land is being acquired for the purposes of development and resale for residential, commercial or industrial purposes.</li> <li>2) For the expansion and relocation of any active commercial or industrial business where the transferee was not in business prior to April 9th, 1974.</li> <li>3) By a non-resident Canadian citizen who undertakes to cease to be a non-resident within five years.</li> <li>4) By a non-resident who is not a Canadian citizen and undertakes to</li> </ol> | <p>cease to be a non-resident within two years.</p> <p>5) By non-resident corporations who undertake to cease to be non-resident within two years or five years, dependent upon the corporate circumstances.</p> <p>During the period of deferment the Minister will register a lien and charge against the lands.</p> <p><b>The Land Speculation Tax Act</b></p> <p>As with The Land Transfer Tax Act, it was recognized that the legislation as originally introduced would doubtless require changes, and An Act to amend The Land Speculation Tax Act was given first reading on October 25, 1974. It was only on the 6th of February, 1975, that the amending Bill received Royal Assent.</p> <p>Following is a summary of the changes in The Act to amend The Land Speculation Tax Act.</p>                                                                                                           |
| <p><b>SUMMARY OF CHANGES IN LEGISLATION</b></p> <p><b>Tax rate reduced</b></p> <p>The rate of speculation tax was originally set at 50% of the taxable value; this has now been reduced to 20%.</p> <p>Refunds have been issued to those persons who paid land speculation tax calculated at the 50% rate, together with interest at 7%.</p> <p><b>Taxing formula</b></p> <p>Within the taxing formula for arriving at taxable value, there are two basic changes:</p> <ol style="list-style-type: none"> <li>1) costs of disposition are segregated from net maintenance allowances</li> </ol> <p>and are completely deductible in computing taxable value.</p> <ol style="list-style-type: none"> <li>2) the averaging of net maintenance costs is now allowed. The transferor will now be able to include in a subsequent year his actual net maintenance costs and not be limited to the 10% ceiling on a year-to-year basis.</li> </ol> <p>It is emphasized that these changes affecting the tax formula apply to all transfers which are not otherwise exempted under the Act.</p> <p><b>Clarifications and extensions</b></p> <p>An extended meaning has now been given to "adjusted value" with respect</p> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <p>to certain dispositions, including the disposition of farm land to a member of the transferor's family.</p> <p>The amendments now provide that no proceeds of disposition arise on any disposition resulting from death, and the reference in the Act to devolutions by Will or on intestacy have been removed. The amendment has thus eliminated the problem that existed in the original legislation with respect to the death of a joint tenant.</p> <p>Since principal residence properties in certain areas within the province often include slightly more than 10 acres of contiguous land, the Act has been amended raising the amount of the subjacent and contiguous land that may be exempt on the disposition of a principal residence from 10 acres to 11 acres.</p> <p>Two information bulletins defining the perimeters of such lands and discussing the 20 acres of land relating to</p> |

principal recreational properties are included as Appendix A and Appendix B.

### Long term leases

The Act now embodies the exemption previously given by regulation to leases of not more than 50 years, including renewals or extensions. Where there is a disposition of designated land by entering into a lease having a term in excess of 50 years, the proceeds of disposition will be the fair market value of the underlying land.

### Disposition by Shares

Dispositions by the issue of shares are now excluded where such dispositions have the effect only of proportionately increasing the number of voting shares held by each shareholder of a corporation. The intent is that where the ratio of share ownership is not altered by an allotment and issue of shares, no disposition will result.

In addition, the exemption to shareholders resulting from a wind-up of a corporation has been extended to include all corporate wind-ups irrespective of the portion of corporate assets represented in land. This exemption, however, does not provide an easy method for tax avoidance, since the shareholder receiving the land through a wind-up will do so on a roll-over basis and any speculation tax, which may be latent when the property is subsequently disposed of, will be borne by him when he sells it.

### Roll-Overs

There is a new provision in the Act termed "eligible dispositions," more commonly called "roll-overs," which deals with dispositions between members of a family, from a settler to a family trust, from an individual to a corporation in exchange for its shares, and for dispositions among subsidiary corporations controlled by the same company. Where such dispositions occur, the adjusted value of the trans-

feror will be continued by the transferee, and no tax will result until the transferee disposes of the designated land in a taxable manner.

### Investment properties

The investment property reduction has been expanded. The requirement that the property be held until April 9, 1977, has been removed, and the period for which the reduction may be claimed has been enlarged to include the time when the property was used as an investment property or a principal residence by the transferor or a predecessor in interest from whom the property was acquired on death or through an eligible disposition.

The taxable value can be reduced by an amount equal to 1/10th for each full 12-month period, up to a maximum of ten such periods that are comprised in an uninterrupted period of time. In addition, the reduction may be claimed for the years prior to April 9, 1974.

### Farm properties

There is a similar reduction for farm property, so that where farm property has been retained and farmed in the family for an uninterrupted period of ten years, the farm property can now be disposed of, exempt from tax. Where the period of time is less than ten years, then there is a reduction of the taxable value of an amount equal to 1/10th thereof for each full 12-month period up to a maximum of ten such periods.

### Land under development

Perhaps the aspects of the Act which have undergone the most extensive revision are those relating to subdivided land and land under development. Before the amendments, a covenant was required between the builder and the developer to discharge the potential tax liability of the developer, and there were also requirements

as to the commencement of construction in order to gain an exemption from the tax. The provisions of the Act, as originally constituted, were too burdensome for both builders and developers alike and simply were not working well.

To remedy these problems, a new clause (k) to Section 4 has been added and provides a one-time exemption under which serviced land can be sold without attracting speculation tax, provided that the land has been improved to a point that construction can lawfully be commenced.

In areas where there is municipal organization, this proviso is satisfied by the availability of a building permit where such permits are required by by-law or, where permits are not required, the exemption will apply to land which has been serviced in accordance with any requirements under The Planning Act.

In areas where there is no municipal organization, land is exempt as long as the territory is not designated as a restricted area pursuant to Section 17 of The Public Lands Act, and the exemption only applies if a permit is authorized by that section.

This is a one-time exemption only and applies to the first sale of serviced land.

The exemption can be taken by way of an affidavit, more particularly referred to in subsection 3 of Section 5 of the Act, and under these circumstances the special lien conferred by the Act does not attach to the designated land being disposed of by the transferor.

### Conclusion

All of these amendments were designed and implemented to eliminate the problems created by the original legislation. It is felt that now the two Acts are functioning in an equitable and relatively smooth manner that will neither unfairly benefit nor unfairly penalize Ontario property owners, buyers and sellers. □

## APPENDIX A.

Ministry of  
Revenue**Bulletin**

No.

LST-22

**The Land Transfer Tax Act, 1974**

Interpretations and Rulings

## Subject

Principal residence of  
more than 11 acres

## Reference

Section 4(e)

1. Section 4(e) of The Land Speculation Tax Act, 1974 as amended provides that a disposition of designated land that is the principal residence of the transferor within the meaning of the section is wholly or partly exempt depending on whether all or part of the designated land is the principal residence of the transferor or the transferor and specified individuals, and depending on the acreage of the designated land in the disposition.
2. It is the interpretation of the Ministry of Revenue that the cases "where only part of the designated land disposed of is ordinarily inhabited by the transferor or by him and his spouse, children or other dependants as his principal residence" are cases where individuals other than those referred to ordinarily inhabit self-contained premises (as described in Ontario Regulation 700/74) forming part of the designated land. In these cases section 4(e) states that the exemption conferred applies only to the proportion of the taxable value on such disposition that is in the same ratio to the whole of such taxable value as the part of any building that is ordinarily inhabited by the transferor or by him and his spouse, children or other dependants as his principal residence is of the whole of the building or buildings included in the designated land so disposed of. A determination as to the principal residence part of the whole of the building or buildings should be based on fair market value and may take into account rental values, floor areas or both.
3. In cases other than those referred to in 2 above, it is the interpretation of the Ministry of Revenue that section 4(e) of the Act provides an exemption for a full eleven acres of designated land including the principal residence and farm buildings in the case of a farm but not including the value of other commercial structures which may be upon the eleven acres referred to in section 4(e). Where the disposition comprises more than 11 acres, the transferor may deduct from the proceeds of disposition, computed as if section 4(e) does not apply, the fair market value at the time of disposition of 11 acres of designated land including the fair market value of any building or structure on the 11 acres which is the principal residence within the meaning of section 4(e) or which is used in connection with or associated with such principal residence. However, he must also deduct from the adjusted value computed as if section 4(e) did not apply, the fair market value of the same 11 acres of designated land at the date as of which adjusted value is required to be determined under the Act, including the fair market value of any principal residence buildings or structures which may have existed on the 11 acres at that date as well as the cost of improvements, net maintenance costs and disposition costs attributable to the exempt 11 acres. The remaining proceeds of disposition and adjusted value relate to the portion of the disposition not exempted by section 4(e) and from which the taxable value and tax, if any, is computed.
4. The 11 acres exempted by section 4(e) must be subjacent and contiguous to the principal residence. However, there could be a substantial variation in the amount of tax that would apply on the disposition of a principal residence property depending upon which 11 acres is considered to be the exempt portion of the disposition. Equity and consistency therefore require that there be a reasonable relationship between the average width and the average length of the exempt 11 acres and the average width and average length respectively of the property that is the subject of the disposition.

Date

March 17, 1975

## APPENDIX B.

Ministry of  
Revenue**Bulletin**No.  
LST-23**The Land Transfer Tax Act, 1974**

Interpretations and Rulings

## Subject

Principal recreation property  
of more than 20 acres

## Reference

Section 4(f)

1. A disposition of designated land that is a principal recreational property within the meaning of section 4(f) of the Act will be only partly exempt by reason of that section if the designated land exceeds 20 acres. It is the interpretation of the Ministry of Revenue that, in every case where such disposition includes more than 20 acres, a transferor may deduct from the proceeds of disposition, computed as if section 4(f) does not apply, the fair market value at the time of disposition of a full 20 acres of designated land including the fair market value of all buildings or structures situated on the 20 acres and used by the transferor or members of his family for his or their recreation or enjoyment. However, he must also deduct from the adjusted value computed as if section 4(f) did not apply, the fair market value of the same 20 acres of designated land at the date as of which adjusted value is required to be determined under the Act, including the fair market value of any recreational buildings or structures which may have existed on the 20 acres at that date, as well as the cost of improvements, net maintenance costs and disposition costs attributable to the exempt 20 acres. The remaining proceeds of disposition and adjusted value relate to the portion of the disposition not exempted by section 4(f) and from which the taxable value and tax, if any, is computed.
2. In many cases the disposition of a principal recreational property within the meaning of section 4(f) of the Act will include a centre of recreational activity such as a cottage, chalet, dock, or campsite. It is the interpretation of the Ministry of Revenue that where a centre of recreational activity exists, the 20 acres exempted by section 4(f) of the Act must be subjacent and contiguous to such centre of recreational activity. This interpretation is consistent with the condition imposed in section 4(e) of the Act relating to the principal residence exemption which requires that the exempt acreage must be subjacent and contiguous to the principal residence.
3. In some cases the amount of tax which would apply on the disposition of a principal recreational property would vary substantially depending upon which 20 acres is considered to be the exempt portion of the disposition. For example, the fair market value of 20 acres comprising a narrow strip of land along a shoreline or road may be much greater than that of another 20 acres in the disposition. Equity and consistency therefore require that a reasonable relationship exist between the average width and the average length of the exempt 20 acres and the average width and average length respectively, of the property that is the subject of the disposition.
4. Where there are no buildings or structures on the principal recreational property, the transferor may choose to determine the exempt portion of the disposition by proration. In such case he would deduct from the proceeds of disposition, computed as if section 4(f) did not apply, an amount equal to that obtained by multiplying such proceeds of disposition by the ratio of 20 over the total acreage of the disposition.  
He would also deduct from the adjusted value, computed as if section 4(f) did not apply, an amount equal to the fair market value of the designated land at the date adjusted value is required to be determined, multiplied by the ratio of 20 over the total acreage of the disposition.
5. A proration will be required where a transferor disposes of an interest he holds in a principal recreational property in excess of 20 acres. Assuming he has a one-third interest in the property he may deduct from the proceeds of disposition of his interest an amount equal to one-third of the fair market value of recreational buildings and structures on the property at the time of disposition. From the remaining proceeds of disposition, which relate to land exclusive of recreational buildings, he may deduct a further amount equal to that obtained by multiplying such remaining proceeds by the ratio that 20 bears to the total acreage with respect to which his interest extends.  
His adjusted value would include the actual acquisition cost to him of his one-third interest — or where fair market value is required to be used, one-third of such fair market value — plus other costs actually borne by him and allowed under the Act. He would deduct from this amount one-third of the fair market value at the required date of any recreational buildings existing at that date. He would also deduct a further amount obtained by multiplying one-third of the fair market value of the whole of the land exclusive of recreational buildings, by the ratio of 20 over the total acreage of such land.

Date

March 17, 1975

# Appendix C. Figure 1



Ministry of  
Revenue The Land Speculation  
Tax Act, 1974

## Application for a Lien Clearance <sup>1</sup>

| MINISTRY USE ONLY |  |  |  |
|-------------------|--|--|--|
| CLEARANCE NUMBER  |  |  |  |
|                   |  |  |  |

PLEASE PRINT CLEARLY THROUGHOUT THIS APPLICATION

<sup>2</sup> PLEASE REFER TO INSTRUCTIONS  
& EXPLANATORY NOTES

### A BASIC INFORMATION

|                                                                   |  |                                                                   |  |
|-------------------------------------------------------------------|--|-------------------------------------------------------------------|--|
| NAME OF TRANSFEROR (AS IT APPEARS ON INSTRUMENT TO BE REGISTERED) |  | NAME OF TRANSFEREE (AS IT APPEARS ON INSTRUMENT TO BE REGISTERED) |  |
| MAILING ADDRESS OF TRANSFEROR                                     |  | MAILING ADDRESS OF TRANSFEREE                                     |  |
| POSTAL CODE                                                       |  | POSTAL CODE                                                       |  |

### B DESCRIPTION OF PROPERTY AND IMPORTANT DATES <sup>3</sup>

|                                                                |                          |                                  |                                              |
|----------------------------------------------------------------|--------------------------|----------------------------------|----------------------------------------------|
| MUNICIPAL ADDRESS                                              |                          | MUNICIPAL TAX ROLL NUMBER        |                                              |
| LOT NO                                                         | CONC NO                  | PLAN NO                          | MUNICIPALITY                                 |
| JUDICIAL DISTRICT OR COUNTY                                    |                          | TOWNSHIP                         | ACREAGE                                      |
| PARCEL NUMBER                                                  |                          | LAND REGISTRY DIVISION           |                                              |
| REGISTRATION NUMBER OF INSTRUMENT CONTAINING LEGAL DESCRIPTION |                          | LAST LIEN CLEARANCE NO. AND DATE |                                              |
| DATE ACQUIRED BY TRANSFEROR                                    | DATE OF THIS DISPOSITION | ANTICIPATED CLOSING DATE         | IS THIS AN ARMS LENGTH TRANSACTION<br>YES NO |

### C TAX CALCULATION

|                                                                                                                                                                                                                                                           |    |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| PROCEEDS OF DISPOSITION <sup>4</sup>                                                                                                                                                                                                                      | \$ |
| ADJUSTED VALUE (CHECK ONE) (FOR FARM PROPERTY USE SECTION 5 ONLY)                                                                                                                                                                                         |    |
| 1 <input type="checkbox"/> FAIR MARKET VALUE ON APRIL 9, 1974—IF ACQUIRED ON OR BEFORE THEN (USE ACQUISITION COST IF GREATER) <sup>5</sup>                                                                                                                | \$ |
| <input type="checkbox"/> COST OF ACQUISITION—IF ACQUIRED AFTER APRIL 9, 1974 <sup>6</sup>                                                                                                                                                                 | \$ |
| <input type="checkbox"/> FAIR MARKET VALUE ON DATE OF DEATH <sup>7</sup>                                                                                                                                                                                  | \$ |
| <input type="checkbox"/> FAIR MARKET VALUE ON DATE OF ACQUISITION <sup>8</sup>                                                                                                                                                                            | \$ |
| 2 COST OF IMPROVEMENTS SINCE APRIL 9, 1974 OR DATE USED IN 1 ABOVE <sup>9</sup>                                                                                                                                                                           | \$ |
| 3 NET MAINTENANCE COSTS SINCE APRIL 9, 1974 OR DATE USED IN 1 ABOVE <sup>10</sup>                                                                                                                                                                         | \$ |
| THE LESSER OF<br>(CHECK ONE) <input type="checkbox"/> ACTUAL NET MAINTENANCE COSTS OR<br><input type="checkbox"/> 5% OF 1% OF VALUE USED IN 1 ABOVE TIMES THE<br><input type="checkbox"/> NUMBER OF FULL MONTHS SINCE DATE USED IN 1 ABOVE                | \$ |
| 4 COST OF DISPOSITION <sup>11</sup>                                                                                                                                                                                                                       | \$ |
| 5 FOR FARM PROPERTY ONLY <sup>12</sup>                                                                                                                                                                                                                    | \$ |
| A FAIR MARKET VALUE ON THE LATEST OF (CHECK ONE) <input type="checkbox"/> APRIL 9, 1974<br><input type="checkbox"/> DATE OF DEATH OF LAST OWNER WHO WAS A MEMBER OF THE FAMILY<br><input type="checkbox"/> DATE ACQUIRED FROM OUTSIDE FAMILY              | \$ |
| B COST OF IMPROVEMENTS (SINCE DATE USED IN 5A) <sup>13</sup>                                                                                                                                                                                              | \$ |
| C COST OF MAINTENANCE (SINCE DATE USED IN 5A THE LESSER OF (CHECK ONE) <input type="checkbox"/> ACTUAL COST OR<br><input type="checkbox"/> 5% OF 1% OF VALUE USED IN 5A TIMES THE<br><input type="checkbox"/> NUMBER OF FULL MONTHS SINCE DATE USED IN 5A | \$ |
| D PROPERTY ADJUSTMENT 10% OF THE VALUE USED IN 5A COMPOUNDED FOR THE NUMBER OF YEARS SINCE THE DATE USED IN 5A <sup>14</sup>                                                                                                                              | \$ |
| E COST OF DISPOSITION                                                                                                                                                                                                                                     | \$ |
| TOTAL ADJUSTED VALUE (SUM OF ITEM 1, 2, 3 AND 4 OR ITEM 5)                                                                                                                                                                                                | \$ |
| GROSS TAXABLE VALUE (PROCEEDS OF DISPOSITION LESS TOTAL ADJUSTED VALUE)                                                                                                                                                                                   | \$ |
| TAXABLE VALUE REDUCTION (FOR FARM AND INVESTMENT PROPERTIES ONLY) <sup>15</sup>                                                                                                                                                                           | \$ |
| NET TAXABLE VALUE                                                                                                                                                                                                                                         | \$ |
| TAX PAYABLE — 20% OF NET TAXABLE VALUE                                                                                                                                                                                                                    | \$ |
| ENCLOSE CERTIFIED CHEQUE PAYABLE TO TREASURER OF ONTARIO                                                                                                                                                                                                  |    |

### D FOR ESTATE REPRESENTATIVES ONLY <sup>16</sup>

|                  |               |
|------------------|---------------|
| NAME OF DECEASED | DATE OF DEATH |
|------------------|---------------|

### E CERTIFICATION

I hereby make application for a LIEN CLEARANCE under The Land Speculation Tax Act 1974 and certify to the best of my knowledge, information and belief the information herein to be true and correct, and further certify that to the best of my knowledge, information and belief, there has been no other disposition by the transferor of, or with respect to the designated land described in section B since the date of acquisition by the transferor, other than the disposition referred to in Lien Clearance No. (delete the last 10 words if not applicable—list additional dispositions on separate schedule).

Date \_\_\_\_\_ Signature \_\_\_\_\_

### F TRANSFEROR'S REPRESENTATIVE

|                 |                                   |
|-----------------|-----------------------------------|
| NAME            | TELEPHONE NO (PLUS AREA CODE) ( ) |
| MAILING ADDRESS | POSTAL CODE                       |

A Lien Clearance is not required as no lien is claimed, where the affidavit under Section 5 (3) of the Act claiming exemption from the tax is attached to the instrument at the time of registration.

01/75-17002A

Appendix C. Figure 2

INSTRUCTIONS & EXPLANATORY NOTES  
FOR APPLICATION  
FOR A LIEN CLEARANCE

- ❶ After clearance may be obtained by:
- i) Mailing this application form, with a copy of the agreement of purchase and sale to the Ministry of Revenue, Land Speculation Tax Section, Queen's Park, Toronto, M7A 1Y2 well in advance of the closing date. A clearance certificate will be mailed to you. OR
  - ii) Taking this application form with a copy of the agreement of purchase and sale and the instruments to be registered to one of the Land Registry Offices or Regional Assessment Offices listed on the reverse of this form. The instruments will be endorsed and handed back to you.
- If for any reason it is not possible to complete the application form or pay the tax in full, an Ontario resident transferor may provide the basic information and property description then complete the undertaking on the reverse of the application form.
- ❷ The material in these instructions is condensed from The Land Speculation Tax Act, 1974 as amended. It is intended as a guide only and not as a substitute for the Act.
- ❸ **DESCRIPTION OF PROPERTY** - If space is insufficient use the back of the application or a separate sheet.
- ❹ **DATE OF ACQUISITION** - The year only need be shown if acquired before April 9, 1974. If acquired since April 9, 1974 enter the date the agreement for purchase and sale was executed.
- ❺ **DATE OF DISPOSITION** - Enter the date the agreement for purchase and sale was executed.
- ❻ **PROCEEDS OF DISPOSITION** - Enter one of the following amounts:
- i) the gross sale price and/or the value of any other consideration received; or
  - ii) if complying with the terms of an option, the sum of the consideration given for the granting of the option plus the cost of acquiring the land upon the exercise of the option; or
  - iii) the fair market value where:
    - a) the parties are not dealing at arms length; or
    - b) the disposition is to a corporation in consideration of the allotment and issue of its shares; or
    - c) the disposition is to a corporation, etc. without share capital in consideration of the admission to membership of any person; or
    - d) the disposition is a gift; or
    - e) a lease of more than 50 years term is entered into, or where the rights under an existing lease having a term of more than 50 years remaining are sold.
- ❼ **FAIR MARKET VALUE ON APRIL 9, 1974** This applies only where the property was acquired prior to April 10, 1974. If available attach any professional appraisal or other evidence to support the declared value. Where the value has declined between the date it was acquired and April 9, 1974, the acquisition cost to the transferor may be used.
- ❽ **COST OF ACQUISITION** This applies only where the property was acquired by the transferor after April 9, 1974. Add to the purchase price all legal fees, real estate commissions, land transfer taxes, etc. Attach purchase and sale agreement and/or other evidence to support total cost.
- ❾ **FAIR MARKET VALUE ON DATE OF DEATH** - This applies only where the property was acquired by the transferor after April 9, 1974 as a result of the death of any person. Enter the fair market value of the property at the date of death of such person and complete also item (DI) to show the name of the deceased and the date of death.
- ❿ **FAIR MARKET VALUE ON DATE OF ACQUISITION** Enter the fair market value of the property at the time it was acquired by the transferor, if acquired after April 9, 1974:
- i) in a non arms-length transaction; or
  - ii) by a corporation in consideration of the allotment and issue of its shares; or

- iii) by a corporation, etc. without share capital in consideration of the admission to membership of any person; or
  - iv) by way of gift; or
  - v) on the creation of or disposition from a trust of which the transferor was or became a beneficiary; or
  - vi) on the entering into a lease for a term in excess of 50 years; or on the sale of rights under a lease with a term remaining in excess of 50 years.
- ⓫ **COST OF IMPROVEMENTS** - Enter the cost of all improvements made to the property by the transferor since April 9, 1974 or later date of acquisition. Improvements include buildings and structures on land, additions to existing buildings, etc. Costs of repairs and other forms of maintenance are not to be included. Submit evidence to support total cost shown, retaining individual invoices for examination later if required.
- ⓬ **NET MAINTENANCE COSTS** - From the total of all maintenance costs incurred in the period since April 9, 1974 or later date of acquisition, deduct any revenue received from the property. The total claim must not exceed an amount equal to 5/6 of 1% of the amount shown in ❸. i times the number of full months in the period. Mortgage interest and property taxes may be included as maintenance costs. Submit profit and loss statements or other evidence to support total costs and gross revenue receipts, retaining individual invoices, etc. **NOTE:** On the sale of farm property, a farmer is not required to reduce his maintenance costs by farm revenue where his chief source of income is from farming. The total claim must not exceed an amount equal to 5/6 of 1% of the amount determined as the value in ❸ below times the number of full months in the period.
- ⓭ **COSTS OF DISPOSITION** - Includes the cost of legal fees, real estate commissions and other disbursements in connection with this sale, but does not include any taxes that are payable as a result of this disposition.
- ⓮ **FOR FARM PROPERTY ONLY** - Where farm property is being conveyed to a person who is not a member of the family, the value to show in 5A is the fair market value on the latest of:
- i) April 9, 1974;
  - ii) the date of death of the last member of the family from whom the land devolved; or
  - iii) when it was acquired from someone outside the family,
- provided that farming has been actually carried on by the family operating the farm since that date.
- ⓯ **FARM PROPERTY ADJUSTMENT** - Where farm property is being conveyed outside the family, enter the sum of 10% of the value used in 5A compounded for the number of years between the date used in 5A and the date of this disposition.
- ⓰ **TAXABLE VALUE REDUCTION** - This applies only where the disposition is of an investment property or of a family farm property. Claim a 10% reduction in taxable value for each full twelve month period including any period prior to April 9, 1974 that the investment property was owned by the transferor, the spouse of the transferor, or jointly between them, or was their principal residence, or that the family farm property was owned and farmed in the family. Support the claim with full details.
- ⓱ **ESTATE BENEFICIARIES** - Where the transferor is the personal representative of a deceased person and the transferee is a beneficiary under the Will of the deceased, an heir on intestacy, or has acquired the property as a result of the death of such deceased person, provide the BASIC INFORMATION and DESCRIPTION OF PROPERTY, then enter NIL in the space for PROCEEDS OF DISPOSITION. Show the name of the deceased and the date of death in item (DI). No tax will be payable.
- ⓲ Books and Records necessary to verify the accuracy of Reported Costs, Expenditure, etc. should be kept available in the event that they are required for audit purposes.

01/75/170024121

Appendix C. Figure 3

ADDITIONAL INFORMATION

UNDERTAKING

In the Matter of an Application for a Lien Clearance  
Under the Land Speculation Tax Act, 1974

To the Minister of Revenue:

WHEREAS the Transferor has been unable to complete the information required in the attached application for lien clearance, or is unable to pay the tax at the time of this application;

AND WHEREAS the Transferor, if a corporation, has a permanent establishment in the Province of Ontario or, if an individual, permanently resides in the Province of Ontario,

The Transferor undertakes that, in consideration of the issue of a lien clearance under the Act in respect of the disposition described in the attached application for lien clearance, the information required to complete the said application will be furnished to the Ministry of Revenue within sixty days of the date hereof and the Transferor further undertakes that any tax exigible under the Act in respect of the disposition described in the said application shall be paid within the said period or that, within that period, additional security therefor satisfactory to the Minister shall be furnished to the Minister.

It is understood by the Transferor that this undertaking is accepted by the Minister of Revenue on the basis that the recitals hereinbefore made and the information contained in the attached application for lien clearance are true and accurate to the best of the knowledge and belief of the Transferor.

DATED AT

TRANSFEROR

this day of

, 197

NOTE

1. This undertaking must be completed by or on behalf of the Transferor making the disposition described in the attached application for lien clearance, or, if the Transferor is a corporation, by an authorized officer of that corporation or its solicitor.
2. This undertaking cannot be given by a corporation that has no permanent establishment in Ontario, nor by an individual who does not permanently reside in Ontario.
3. Amend the first recital as necessary.

01/75/1700241/RI

## QUESTION & ANSWER

**Q:** Do you foresee any changes in the structure of the farm tax rebate system after province-wide implementation of reassessment? Do you think the realignment of relative land values will eliminate the need for this type of subsidy?

**A:** Originally, the farm tax rebate system was intended to remove the educational portion of municipal tax from the productive unit farmland. But the system could not be implemented strictly on that basis because the assessed values for farmland varied so drastically from one county to another. Therefore, the only avenue the province could use was a rebate of the tax imposed, which would hopefully remove the inequities.

I should imagine that after the implementation of the reassessed values and the creation of uniformity among land valuations based on varying values per county, the government can indeed, if it wishes, adopt its original measure; that is, to base the rebate on the amount that the taxes ought to be reduced in order to remove the educational portion of the tax.

It is unlikely that the government will reduce the amount of relief that presently is given in the event that a new system would mean a reduced rebate. It might even consider the complete removal of municipal taxes in the productive unit farmland, with the exception of the building site.

I would imagine, then, that the tax rebate system will continue. I know the Government did explore the possibility of a farm tax credit system, as is used for residential tax reduction programs, but it didn't appear that it would work well for farms and farmers. So the rebate system has been maintained.

**Q:** What is the Division's current policy on the treatment of larger acreages (i.e. greater than 10 acres) which are used partly for farm and partly for non-farm purposes? More specifically, if the second house on a

farm property is leased to a non-farmer, does this justify valuing the land by two methods, namely residential and farm?

**A:** I don't believe the Division has a firm policy in this area; at least it hasn't had one before. But in Grey and Bruce, for instance, at the county judge level, the judge did make this sort of partition. In other words, upon appeal he examined the particular land unit, and if thirty acres were leased to a farmer for farming purposes or used by the owner for farming purposes, then the judge ruled that the thirty acres be assessed as farmland and the rest as recreational, residential or whatever the case may be. I think it was our original intention in this Division that a property either was a farm or wasn't a farm, and that it be valued on that one basis. With respect to the second house on a farm property that is leased to a non-farmer — or leased to anybody, farmer or not — I think it should be valued as a residential unit for that portion of land and the house.

**Q:** Section 78 of The Assessment Act prohibits the disclosure of information by assessors, except in court. Some assessors feel that the appeal process could be expedited if appellants were given access to information on comparable properties before the court date, so they could prepare their cases ahead of time and thus avoid adjournments. Do you foresee any possibility of a change in the Act in order to allow this?

**A:** I don't believe that it is necessary to change the Act. I don't think it is the intention of the Act to prohibit allowing an appellant access to such reasonable information as he may need in order to decide whether he should appeal in the first place or to process the appeal if he has decided to lodge it. Clearly, the information necessary for someone to determine whether his property is assessed fairly in comparison to others is public information contained in the assessment roll.

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## MR. P.G. GILLS SPEAKS ON DISCLOSURE, UPDATING 1972 BASE YEAR VALUES AND PROVINCIAL LAND TAX ASSESSMENT.

*In my view, I have felt up to now that the instruction was clear to all assessors that they were indeed to allow an appellant to find out what the comparable assessed values were for any property that he chooses to compare with.*

*Of course, certain information is classified and confidential, such as sale price, certain conditions in respect to that particular sale, financing terms, etc. On the other hand, if a ratepayer wants to know how much a property is assessed for, how it compares by square foot area, by an attached garage, by a swimming pool, by the stone in the backyard or whatever, with the property under consideration, then clearly that information should be given. That is the reason for running open houses and the intention of any information system that we have. I am very concerned to think that there is any possibility that our assessors are being instructed by their supervisors not to make this information available; and if they are, then it should cease immediately.*

**Q:** *Would you say, then, that we can give out physical characteristics, which are not information on the roll, about other properties?*

**A:** *That is correct.*

**Q:** *What will be the cut-off date for sales to be used in calculating reassessed values? Will the same criteria apply across the entire province?*

**A:** *The same criteria will apply across the entire Province. In my view we should use sales as close to the valuation date as possible, and that is my instruction.*

**Q:** *What method or methods will be used to update 1972 values for the reassessment? Will the Valuation File be utilized for this purpose? If so, how?*

**A:** *It is my hope that the Valuation File will be utilized for this purpose and that it will allow the development of local modifiers on a neighbourhood basis that will update the 1972 base year values to values as current to the reassessment dates as is humanly possible. However, there is one caution, which is that all of the 1972 values will have to be checked before modifiers can be applied willy-nilly against them. I know of certain situations where there are sizeable inequities in the 1972 base year values, and the application of a modifier against these will only compound those errors. So there is no question about it, they all will have to be checked. Hopefully, the Quality Control reports emanating from the Valuation File will make it easy to check them.*

**Q:** *The Assessment Division is currently in the process of assuming responsibility for the provincial land tax. Could you explain what the assessor's function will be in the administration of this tax?*

**A:** *The assessor will do exactly the same thing to the lands on which only the provincial land tax is applicable as he would to any other parcel of land with which he is concerned. He will be preparing a listing comparable to an assessment roll; this will be turned over to the Corporations Tax Branch of the Ministry of Revenue, and they will issue tax bills, generally speaking, on the same basis as a municipality would.*

□

**QUESTION  
& ANSWER**

September 1975

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1975

BAS

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## REGIONAL

## DELEGATES

for

aspects

### Eastern Ontario Assessment Area

1. Prescott & Russell-Stormont  
Dundas & Glengarry — Mr. H. Morris
2. Lanark-Leeds & Grenville — Mr. G. Grey
3. Ottawa-Carleton — Mr. H. Hafenbrack
4. Renfrew — Mr. H. R. Barkell
5. Frontenac-Lennox & Addington — Mr. K. Froats
6. Hastings-Prince Edward — Mr. J. A. Smith
7. Haliburton-Peterborough-Victoria — Mr. J. Guerin

### Central Ontario Assessment Area

8. City of Toronto — Mr. L. Shimbart
9. North York — Mr. A. W. Wilson
10. Scarborough-East York — Mr. D. Struke
11. Etobicoke-York — Ms. C. Farr
12. Ontario — Bill Robinson
13. York — Mrs. C. Shaw
14. Halton-Peel — Mrs. Barbara Trotter
15. Simcoe — Mr. M. Lumsden
16. Muskoka — Mr. R. McCann

### Western Ontario Assessment Area

17. Niagara — J. Harriman
18. Wentworth — Mr. L. B. Charlton
19. Brant-Haldimand-Norfolk — Mr. J. Huff
20. Waterloo — Mr. C. Meadows
21. Dufferin-Wellington — Mr. I. Dunlop
22. Elgin-Middlesex-Oxford — R. Scott
23. Huron-Perth — Mr. L. Harloff
24. Bruce-Grey — Mr. R. Robertson
25. Kent-Lambton — Mr. A. Smith
26. Essex — Mr. J. Storey

### Northern Assessment Area

27. Nipissing-Parry Sound — Mr. L. Warner
  28. Cochrane-Timiskaming — Mr. A. Young
  29. Manitoulin-Sudbury — Mr. I. McJannet
  30. Algoma — Mr. F. St. Jules
  31. Kenora-Rainy River-Thunder Bay — Mr. I. Zhiha
-

## DISTRIBUTION

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## POLICY

Contributions and correspondence are welcome. Address all manuscripts and inquiries to the Advisory Committee member in your Area or directly to the Editor, Assessment Standards Branch, Assessment Division, Ministry of Revenue, Queens Park, Toronto, Ontario M7A 1X8.

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